

IMPLICATIONS OF TRANSNATIONAL TERRORISM FOR THE VISA WAIVER PROGRAM

HEARING BEFORE THE SUBCOMMITTEE ON IMMIGRATION AND CLAIMS OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

FEBRUARY 28, 2002

Serial No. 61

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

77-898 PDF

WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
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IMPLICATIONS OF TRANSNATIONAL TERRORISM FOR THE VISA WAIVER PROGRAM

THURSDAY, FEBRUARY 28, 2002

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 3 p.m., in Room 2237, Rayburn House Office Building, Hon. George W. Gekas [Chairman of the Subcommittee] presiding.

Mr. GEKAS. The hour of 3 o'clock having arrived, the Committee will come to order. The record will indicate that the lady from Texas, Mrs. Lee, and the Chair are present, and therefore a quorum is constituted for the purposes of this hearing.

This hearing will focus on the very important program known as Visa Waiver, which is so vital to so many different people and different entities in our Nation.

Some 28 countries are beneficiaries and/or partners, shall we say, in the visa-less visitation back and forth, and therefore, it affects not only our citizens but their counterparts in other parts of the world. We are interested in the continuation of the good enterprise that that constitutes.

At the same time, lots of things have changed since September the 11th. And when it becomes notable that many of the terrorists, suspected and actual, came into our country legally, then that puts the spotlight on programs that allow people to come in legally. And therefore, this program, so energetic and so beloved of so many people, is in the throes of constant focus now to determine how shall it be continued, if it should be continued, and what other parameters of restriction, if any, shall be the call of the day on this very vital program.

We will hear witnesses today who will help us formulate additional policy and to help us really advise the Justice Department as well on various aspects of what now exists in the totality of the program.

So without further ado, I will yield to the lady from Texas for an opening statement and we will proceed with the witnesses.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I would ask unanimous consent that the entirety of my opening statement be submitted into the record.

Mr. GEKAS. Without objection.

Ms. JACKSON LEE. I thank you for holding this important hearing, and you are right that it is important for this Committee to be instructive and to do so in a bipartisan manner. This was legis-

lation that probably after a good bit of review we enthusiastically, again in a bipartisan manner, supported, and this of course is the visa program for what we call low-risk countries.

I recall in fact on my concern that there were not enough countries from the continent of Africa—that was one of my issues at that time—that were able to participate. We have many allies and friends on the continent, and the list was very short and, if you will, short-sighted. Those were the issues of that time.

We now have some difficult and different concerns, not to diminish the concern that any time you respect or give benefit to countries that it should be balanced and widespread, all of our allies and friends should be included. But we need to assess the fact of whether or not we need emergency safeguards.

Argentina points out that well-thought safeguards in the program can make it work well. Emergency safeguards were triggered and Argentina has been temporarily suspended. But other measures may be needed to shore up the system. So we do need to be instructive to the Department of Justice and of course the INS.

I am always reminded, however, as we look at those programs that it is very important that we emphasize again that this country is a country of immigrants, and as well a country of laws, and we should never do anything that would undermine our commitment and values to the free movement of individuals who have no intent to do us harm.

I hope as we reassess this program we will be able to again discuss the question of other eligible countries who have not shown us any intent to do harm. In fact, many of the African countries after September 11th expressed their undying commitment, if you will, to helping us fight terrorism.

Might I also say, Mr. Chairman, that we are in a new year, in the second part of the 107th Congress, and I look forward to us having an additional meeting on some of the issues that I raised in the first session of the 107th, including INS restructuring, the completion of 245-I, several private bills that we have great concern about that I think are extremely important. We don't tend to do that, but I think they are very important that we should address, and some of the questions dealing with the issue of refugees and how they are treated.

I will conclude to the witnesses by welcoming them, and, Mr. Chairman, I am scheduled to leave for Afghanistan. If I am not able to stay throughout the entire hearing, I would beg your indulgence. I yield back.

Mr. FRANK. One of your junkets.

Ms. JACKSON LEE. Thank you, Mr. Frank. I am so glad you have clarified it for the record. My good friend Mr. Frank is here as well, and I appreciate his leadership on many of these issues.

Mr. GEKAS. And for the record, we will repeat that the gentleman from Massachusetts is indeed present. We can begin then with the introduction of the witnesses.

Glenn A. Fine is with us, the Inspector General of the United States Department of Justice. Glenn Fine was confirmed by the United States Senate as the Inspector General of the Department of Justice on December the 15th, 2000. He had served as the Acting Inspector General since August 2000.

Mr. Fine has worked for the Department of Justice, Office of the Inspector General since January 1995. Initially he was Special Counsel to the Inspector General. In 1996, he became the Director of the OIG's Special Investigations and Review Unit.

Mr. Fine graduated magna cum laude from Harvard College in 1979 with an AB degree in economics. He was a Rhodes Scholar and earned BA and MA degrees from Oxford University. He received his law degree magna cum laude from Harvard Law School in 1985.

He is joined at the counsel table—at the witness table, shall I say, by Peter M. Becraft, Deputy Commissioner, Immigration and Naturalization Service, and also by Professor Yonah Alexander, who is Senior Fellow at the Potomac Institute for Policy Studies and Director of its International Center for Terrorism Studies as well as a member of the Board of Regents.

Professor Alexander has also taught at the American University, the Columbus School of Law at Catholic University of America, Tel Aviv University and the City University of New York.

They are joined by William Norman, President of the Travel Industry Association of America. William S. Norman is President and Chief Executive Officer of the Travel Industry Association of America, a position he assumed on January 1, 1995. It is a national umbrella association that represents all segments of the \$584 billion U.S. Travel and tourism industry in promoting and facilitating increased travel to and within the United States.

We will begin then as our witnesses were introduced, and we will follow the usual Committee practice of allotting 5 minutes for the presentation of a review of the written statement, which we will include into the record in its entirety as part of the record.

So we will begin by allotting 5 minutes to Mr. Fine.

**STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL,
UNITED STATES DEPARTMENT OF JUSTICE**

Mr. FINE. Mr. Chairman, Congresswoman Jackson Lee, Congressman Frank, Members of the Subcommittee on Immigration and Claims. I appreciate the opportunity to appear again before the Subcommittee to discuss the Visa Waiver Program.

In March 1999, the Office of the Inspector General issued an INS review, examining the INS's efforts at air ports of entry to minimize illegal immigration and national security threats posed by abuses of the Visa Waiver Program.

After the September 11th terrorist attacks, the OIG conducted a follow-up review on the Visa Waiver Program, and on a series of other INS programs that could affect national security. We did this because of concerns that any weaknesses in the way the visa program was implemented could help facilitate illegal entry of criminals or terrorists into the United States.

Our follow-up review on the Visa Waiver Program specifically examined how well the INS had responded to the recommendations we made in our 1999 report. My testimony today will focus on the OIG's findings in the follow-up report.

Because visitors traveling to the United States under the Visa Waiver Program do not need a visa to request entry into the United States, inspections by INS inspectors at ports of entry are

the principal means of preventing the illegal entry of individuals from one of the 28 visa waiver countries.

The primary tool available to INS employees during the inspection process is the Interagency Border Inspection System, known as IBIS. IBIS allows INS inspectors to search a variety of databases containing records and lookouts on individuals who should not be allowed to enter the United States. The 1999 OIG report found, however, that INS inspectors at the ports of entry were not consistently querying passport numbers against IBIS.

In addition, we found that the INS had failed to enter information on lost or stolen passports from visa waiver countries into IBIS in a timely, accurate or consistent manner, and that the INS had not designated a centralized unit to collect information on lost or stolen passports.

We concluded that the INS efforts to address the national security risks posed by the program were insufficient and were conducted in an ad hoc and sporadic manner.

In response to our 1999 report, INS officials issued a new policy memorandum providing guidance to INS field personnel addressing our three recommendations. Specifically, the memorandum required INS inspectors to check passport numbers of all visa waiver applicants during primary inspection at ports of entry, designated the INS's Lookout Unit as the centralized INS entity to systematically collect information on stolen, blank visa waiver passports, and included guidelines for entering passport numbers when creating lookout records.

In our follow-up review we assessed whether the INS had effectively implemented those new policies. We interviewed various officials at INS headquarters, officials from the Department of Justice and Department of State, and senior INS managers at the same four ports of entry we reviewed in 1999, Dulles, JFK, Honolulu, and Miami International Airports.

Overall, our follow-up review found that the INS had implemented our recommendations in an inconsistent and incomplete manner. First, with regard to the recommendations that the INS ensure that the passport number of each visa waiver applicant is checked against IBIS, our interviews with INS managers at the four ports of entry found that contrary to the new INS policies, INS inspectors still were not consistently checking the passport number of each visa waiver applicant. For example, perhaps most troubling, a senior INS official from Miami Airport told the OIG he was not even aware of any INS policy that required entry of passport numbers into IBIS during primary inspection.

With regard to our second recommendation, that the INS designate a unit to systematically collect information on stolen, blank visa waiver passports and ensure timely and accurate entry of passport numbers into IBIS, we found that information about stolen passports still were not consistently being forwarded to the INS's Lookout Unit.

We also found a large backlog in the Lookout Unit in entering information on lost or stolen passports. INS still has no centralized place in the INS which ensures that lost or stolen passports are being entered in a timely, comprehensive or uniform manner.

With regard to our third recommendation, that the INS develop clear guidelines describing which passport numbers should be used, our interviews with INS officials indicate a continuing lack of uniformity. Responses from the port officials as to which numbers should be entered, ranged from the document number on the passport's biographical page to merely the alien's name without any passport number.

Our follow-up review did recognize that the INS has taken the initiative to address some law enforcement concerns in the Visa Waiver Program, and that many issues related to the program are beyond INS's control, such as the processes used by visa waiver countries for issuing passports and the failure by participating countries to report stolen passports.

For example, visa waiver countries are not obligated by statute to report information on stolen passports to the United States in order to participate in the program. According to INS officials, some countries are more cooperative than others in reporting this information to U.S. authorities. But as a whole, country reporting of lost and stolen passport information is sporadic and incomplete.

Despite the issues outside of the control of the INS, however, we believe the INS needs to improve its efforts to reduce risks posed by abuses of the Visa Waiver Program.

We again recommend that the INS take aggressive action to ensure and monitor compliance with the policies in response to our recommendations, which could help reduce some of the risks of the program.

That concludes my prepared remarks. I would be pleased to answer any questions.

[The prepared statement of Mr. Fine follows:]

PREPARED STATEMENT OF GLENN A. FINE

Mr. Chairman, Congresswoman Jackson Lee, and Members of the Subcommittee on Immigration and Claims:

Thank you for inviting me to testify before the Subcommittee about the Office of the Inspector General's (OIG) work on the Visa Waiver Program (VWP). The VWP, a joint responsibility of the Immigration and Naturalization Service (INS) and the U.S. Department of State, waives visa requirements for visitors from 28 countries who travel to the United States for business or pleasure. According to INS data, between 17 and 18 million nonimmigrants entered the United States under the visa waiver program during each of the past three fiscal years.

Our office testified before this Subcommittee two years ago about the OIG's March 1999 inspection of what was then called the "Visa Waiver Pilot Program." (The program was made permanent in October 2000.) The OIG's 1999 review assessed the INS's efforts at air ports of entry to minimize illegal immigration and national security threats posed by abuses of the visa waiver program.

After the September 11 terrorist attacks, the OIG conducted a follow-up review on the visa waiver program—and on a series of other INS programs that affect national security—because of concerns that the weaknesses in the programs that we previously identified could facilitate illegal entry of criminals and terrorists into the United States. Our follow-up review on the visa waiver program, conducted in October and November 2001 and released in December 2001, examined how well the INS had responded to the recommendations we made in our 1999 report. During our follow-up review, we concentrated on VWP issues for which the INS has direct responsibility, although we recognize that issues outside the INS's control can affect its operation of the program.

My testimony today will focus mainly on the OIG's findings in our recent follow-up review. For the Subcommittee's information, I have provided copies of the OIG's follow-up report as an addendum to my written statement.

I. OVERVIEW OF VISA WAIVER PROGRAM

Foreign travelers from non-VWP countries must first obtain a visa to enter the United States. To obtain a visa, individuals submit written applications and may undergo interviews and background checks by Department of State personnel at consular posts abroad.

In contrast, visitors traveling for business or pleasure under the VWP do not need a visa to request entry into the United States. Instead, VWP applicants present their passports and completed I-94W Forms (Nonimmigrant Visa Waiver Arrival/Departure Forms) to INS inspectors at U.S. ports of entry. The INS inspectors observe and question the applicants, examine the passports, and conduct checks against computerized databases to make decisions on whether to grant applicants entry into the United States. This review by INS inspectors is the principal and, in many cases, the only means of preventing the illegal entry of individuals claiming to possess a valid VWP passport. INS inspectors have, on average, less than one minute to check and decide on each applicant.

During the inspection process, the primary tool available to INS employees to prevent applicants from fraudulently entering the United States is the Interagency Border Inspection System (IBIS), a computer database maintained by the U.S. Customs Service that is commonly known as the lookout system. The INS and other federal agencies, such as the Department of State, the Department of Agriculture, and the Customs Service, can access and enter data into the IBIS system. IBIS therefore allows INS inspectors at ports of entry to search various databases containing records of individuals who should not be allowed to enter the United States.

During primary inspection at a port of entry, an INS inspector examines the traveler's passport and checks the applicant for entry against IBIS. If the individual's passport is machine-readable, the INS inspector scans it into a reader and the individual's first name, last name, date of birth, and passport number are electronically checked against IBIS. If the passport is not machine readable, the inspector is supposed to enter the individual's name, date of birth, and passport number into the system to check against IBIS.

II. SUMMARY OF FINDINGS—DECEMBER 2001 OIG REVIEW

The March 1999 OIG report assessed the INS's efforts to minimize national security threats and decrease the potential for illegal immigration posed by VWP applicants. We found that INS inspectors were not consistently querying passport numbers against IBIS, either by scanning machine-readable passports or manually entering the passport number. In addition, we found that the INS had failed to enter information on lost or stolen passports from VWP countries into IBIS in a timely, accurate, or consistent manner, and the INS had not designated a single entity to collect information on lost or stolen passports.

The report noted the potential for criminals and terrorists to use the program to fraudulently enter the United States because visa waiver applicants can avoid the pre-screening normally performed by consular officers overseas. Overall, we found that the INS efforts to address the national security risks posed by the program were insufficient and were conducted in an ad hoc and sporadic manner.

In February 2000, in response to our report, INS officials provided the OIG with a policy memorandum, dated October 4, 1999, that provided guidance to INS field personnel addressing the three recommendations we made in our original OIG report. Specifically, the memorandum required INS inspectors to check passport numbers of all visa waiver applicants during primary inspection at ports of entry; designated the INS's Lookout Unit as the centralized INS entity to systematically collect information on stolen blank visa waiver passports; and included guidelines for entering passport numbers when creating lookout records. According to this memorandum, these new INS policies were to be "effective immediately." The INS also included these policies in its INS Inspector's Field Manual.

In our follow-up review, conducted in October and November 2001, the OIG collected data from various sources to assess whether the INS had effectively implemented our recommendations. We interviewed the head of the INS Lookout Unit, personnel from the INS Forensic Document Lab and INS's Inspections Division, and officials from the Department of Justice and Department of State.

We also interviewed senior INS managers at four air ports of entry to focus on policies and procedures implemented as a result of our original report. The four ports we contacted were the same ports we reviewed in 1999: Dulles International Airport, Honolulu International Airport, John F. Kennedy International Airport, and Miami International Airport.

Overall, our follow-up review found that the INS has implemented our recommendations in an inconsistent and incomplete manner. I will address each of the

three recommendations from our March 1999 report and what we found during our follow-up review:

Recommendation #1: Modify primary inspection policy to ensure that the passport number of each visa waiver applicant is checked against IBIS.

In its October 1999 memorandum, the INS directed immigration inspectors at air and sea ports of entry to query the passport number of each applicant for admission, *including VWP applicants*, in IBIS during primary inspection. However, our interviews with INS managers at the four ports of entry for our follow-up report found that, contrary to this policy, the passport number of each VWP applicant was not being checked consistently against IBIS. For example:

- A senior INS official at JFK Airport told the OIG that while management emphasizes to immigration inspectors that they should manually query each VWP applicant's passport number, inspectors historically have queried just the alien's name in IBIS. In addition, passports from various countries contain a variety of numbers, which still has caused confusion for inspectors as to which number to query in IBIS. Finally, the JFK port official said that INS inspectors operate under a congressionally mandated time limit of 45 minutes to inspect all passengers arriving on international flights. The port official stated that it is difficult to meet this time limit while querying each arriving alien's passport number in IBIS during primary inspection. Consequently, the official said that it was "questionable" whether immigration inspectors at JFK consistently queried passport numbers for all VWP applicants.
- A senior INS official at Dulles Airport stated that if the air carrier does not provide passenger data in advance, then inspectors only query against IBIS the passenger's last name, first name, and date of birth, not the passport number. As a result, individuals using lost or stolen passports may not be detected.
- A senior INS official from the Miami Airport told the OIG he was not aware of any policy requiring entry of passport numbers into IBIS during primary inspection. He said inspectors at the Miami port of entry query the VWP applicant's last name, first name, and date of birth against IBIS.

We concluded in our 1999 report that the national security and law enforcement benefits of IBIS are lost for many visa waiver applicants whose passports are not machine-readable or if the passport numbers were not manually entered into the system. Entering an individual's name and date of birth might not register a "hit" in IBIS. That individual, however, could be fraudulently seeking to enter the United States with a lost or stolen passport that would not register if the passport number is not queried properly. Although only one VWP country, Switzerland, does not currently produce machine-readable passports, many passports presented to inspectors from VWP countries such as Belgium, France, Italy, and Norway are older and therefore not machine-readable.

There is also a modification of the IBIS system that we believe would be useful in checking passports. Prior to our 1999 report, INS inspectors were not required to enter an alien's passport number into IBIS during primary inspection. To address the recommendations in our original report, the INS in October 2000 asked the Customs Service—which manages IBIS—to make changes so that the IBIS system would prompt inspectors to enter the passport number when checking IBIS if the passport number was not entered by the inspector. This change would make the passport number a mandatory data field during a primary inspection query. In July 2000, the INS submitted 22 projects to modify IBIS, including this system change. According to an INS official we contacted in mid-February 2002, the INS received funding for all of the IBIS modifications in its fiscal year 2002 budget and is developing an interagency agreement with the Customs Service to transfer the money to pay for the system changes to IBIS.

Recommendation #2: Designate a unit to systematically collect information on stolen blank VWP passports and ensure timely and accurate entry of stolen passport numbers into IBIS.

Our follow-up review found that, contrary to this recommendation, information about missing passports still is not consistently being forwarded to the INS's Lookout Unit. Moreover, we found a significant backlog in the Lookout Unit in entering missing passports.

According to an official from the Lookout Unit, immigration inspectors at ports of entry are entering the vast majority of lookouts on their own. INS officials at the

four ports of entry contacted during our follow-up review confirmed that they are not consistently forwarding information on missing passports to the Lookout Unit.

The intent of our original recommendation was for the INS to designate a centralized unit to collect information on missing visa waiver passports to ensure that this information was entered quickly and accurately into IBIS. Our follow-up review shows that the INS policy is being disregarded and that reporting of this information by INS field personnel to the Lookout Unit is not systematic. Consequently, the responsibility for entering stolen passport information into IBIS appears to be fragmented, and there still is no centralized place to ensure that lost or stolen passports are being entered in a timely, comprehensive, or uniform manner. To provide for effective and reliable entry of information on missing passports into IBIS, the INS needs to revisit its current policy to determine whether the Lookout Unit, INS field personnel, some combination of these groups, or another INS unit is the most appropriate entity to perform this crucial function.

Recommendation #3: Develop clear guidelines for the entry of passport numbers when creating lookout records.

Our interviews with INS officials at the four ports of entry indicate a lack of uniformity among ports as to which number in a passport should be used in creating and querying lookout records. Responses from the port officials as to which number should be entered ranged from the document number on the passport's biographical page to merely the alien's name without any passport number.

In response to the original OIG report, the INS issued guidelines for entering passport numbers into IBIS when creating lookouts and when querying the system. Specifically, if a non machine-readable passport is presented during primary inspection, the policy listed the hierarchy of passport numbers that should be entered into IBIS, beginning with the perforated number on the passport. However, our follow-up review found that this policy has not been fully disseminated or uniformly implemented by INS field personnel who query IBIS.

III. OIG RECOMMENDATIONS

Our follow-up review found that INS inspectors still are not consistently entering passport numbers into IBIS to identify applicants who are attempting to use the VWP to enter this country illegally. In addition, we found that the INS does not systematically collect and report missing passport information. Consequently, our follow-up review recommended that the INS renew its efforts to ensure compliance with the recommendations made in our original report. Specifically, we recommended that the INS:

1. Require inspectors to query all passport numbers in IBIS during primary inspection.
2. Reexamine its procedures for collecting and reporting information on missing passports, especially blank passports.
3. Disseminate its procedures for entering data on missing passports into IBIS.

In addition to reissuing this guidance, we believe the INS must follow up to ensure that field personnel understand and follow these procedures.

Finally, our report notes that many issues related to VWP are beyond INS's control, such as the Department of State's nomination of countries for the VWP, the processes used by VWP countries for issuing passports, and the failure by participating countries to report stolen passports. For example, VWP countries are not obligated by statute to report information on missing passports to the United States in order to participate in the VWP. According to INS officials, some VWP countries are more cooperative than others in reporting missing passport information to U.S. authorities, but as a whole VWP country reporting of this information is sporadic and incomplete.

Despite the issues that are outside the control of the INS, our inspection identified several important areas in which the INS needs to improve its efforts to reduce risks posed by abuses of the VWP. We again recommend that the INS take aggressive action to ensure that these improvements are made.

This concludes my prepared remarks. I would be pleased to answer any questions.

Mr. GEKAS. And we have an appropriate segue into Mr. Becraft.

STATEMENT OF PETER M. BECRAFT, DEPUTY COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE

Mr. BECRAFT. Thank you very much, Mr. Chairman and Members of the Subcommittee.

I welcome the opportunity to testify before you today on the Visa Waiver Program. Since its inception in 1988, the Visa Waiver Program has grown tremendously and has proven extremely popular with nationals of visa waiver countries and with the travel and tourism industry.

The program has expanded from two countries in 1988 to 29 countries in 2001. In fiscal year 2001 the INS recorded approximately 17 million arrivals under this program. In addition to stimulating tourism and commerce, the Visa Waiver Program has allowed the Department of State to concentrate its resources on greater risk areas in the visa process.

Irrespective of the program's overall success, however, there also are serious areas of concern which the INS has noted in previous testimony to this Subcommittee, which take on added importance after the events of September the 11th.

In 1986, the Immigration Reform and Control Act authorized the Visa Waiver Pilot Program as section 217 of the Immigration and Nationality Act. The program's purpose was twofold: First, to facilitate low-risk travel to the United States; and, second, to allow the Secretary of State to conserve and reallocate consular resources.

In October of 2000, the Visa Waiver Permanent Program Act made the pilot program permanent and included program modifications to enhance the law enforcement and security interests of the United States. Under the program, visitors from designated countries may be admitted to the United States without a visa for a period of up to 90 days.

Because travelers under the program do not need a visa, no background checks are done prior to their arrival at the port of entry. However, Visa Waiver Program travelers must waive in writing any right to review of an immigration officer's determination that they are inadmissible or removable from the United States.

There are four criteria for inclusion of the countries in the program. These are: One, that the country offer reciprocal privileges to United States citizens; two, that the country have had a non-immigrant visa refusal rate of less than 3 percent for the previous year; that the country certify that it issues, or by October 1, 2003, will issue, a machine-readable passport; and, four, that the Attorney General, in consultation with the Secretary of State, makes a determination that inclusion of the country in the program does not compromise the law enforcement interests, including either immigration, law enforcement or security interests of the United States.

The program also now provides that the Attorney General, in consultation with the Secretary of State, shall immediately terminate the country's designation if an emergency occurs in the program country that threatens the U.S. Interests, including the interests and enforcement of the immigration laws of our Nation. Such emergencies include, but are not limited to, the overthrow of a democratically elected government, war, a severe breakdown in law and order affecting a significant portion of the country's territory, or a severe economic collapse in the program country.

Both the INS and the Department of State welcome these changes and their clear contribution to the effective and orderly administration of the VWP.

At this point I would like to focus on the Department of Justice, Office of the Inspector General's December 2001 follow-up report on the Visa Waiver Program and the vulnerability of the program to abuse by terrorists.

In March 1999, the Office of the Inspector General issued an inspection report, "The Potential for Fraud in INS's Efforts to Reduce the Risks of the Visa Waiver Pilot Program." the OIG report determined what was then the Visa Waiver Pilot Program facilitated the illegal entry of terrorists and criminals into the United States. Among the recommendations of the OIG was that the INS should develop clear guidelines for the entry of passport numbers when creating lookout records.

The INS, in response to the report, did issue clear guidelines to ensure that field officers check every passport number in the Inter-agency Border inspection System, or IBIS, and inform the lookout system when field offices receive notice of missing or stolen passports. The OIG's follow up report identified those efforts, but suggested that INS should redouble its efforts to ensure that field officers fully understand and comply with the guidance.

Mr. Chairman, let me assure you that the INS shares the Inspector General's emphasis on proper VWP security, and Glenn and I have discussed this at this table today.

Accordingly, we have again issued the policy directive. In addition, we will now work to ensure oversight of field office compliance of this directive through our Office of Internal Audit's INSpect review process, and let me assure you that Commissioner Ziglar and I will take a personal hand in ensuring that everyone understands what the rules are and where we are going from here.

As I noted earlier, the VWP allows foreign nationals from designated countries to apply for admission to the United States without a background check prior to their arrival. Under the normal, non-immigrant visa application process, consular officers at U.S. Embassies abroad require specific information from travelers before issuing a non-immigrant visa.

While the overwhelming majority of Visa Waiver Program applicants are law abiding individuals, some terrorists and criminals have taken advantage of the program to gain access to the United States. Unlike the traditional double-check non-immigrant system, the program allows only one opportunity to identify inadmissible aliens.

Unfortunately, some countries that participate in the Visa Waiver Program have over the years had significant thefts of blank passport stock which are not always reported to the INS. Unreported blank passport thefts make the program more susceptible to terrorists and criminals. When a person attempts to enter the United States with a fraudulent passport, most often no lookout exists on the passport itself.

For instance, Ramzi Yousef and Ahmad Ajaj used fraudulent visa waiver country passports to travel to the United States in furtherance of their conspiracy to bomb the World Trade Center in 1993. At the time of their inspection, no lookout existed on their altered passports, but INS officers were still able to intercept the two men as a result of the inspection review.

In two separate instances last year, two individuals identified as posing threats to the United States used lawfully issued Visa Waiver Program passports in apparent attempts to attack U.S. Interests.

Despite these security concerns, eliminating the program will not eliminate the ability of terrorists to enter the United States. Under the recently passed program amendments, the Attorney General is required to conduct periodic reviews of each country's continued eligibility in the program. Prior to September 11, the INS had already begun making arrangements to begin reviews of the VWP countries in 2001.

By the end of 2001 our security and intelligence specialists, along with Department of State personnel, reviewed numerous conditions in the first six countries. They met with representatives of U.S. And foreign law enforcement agencies, and took part in numerous on-site facility inspections. While we have yet to finalize these first six-country evaluations, six additional countries will undergo the same review process later this year.

While the ongoing country evaluations are very important, we also recognized that emergent circumstances in Argentina merited consideration of the use of the emergency termination provisions contained in the INA. Thus, on December 21, 2001, we began the process that resulted in a determination that Argentina's participation in the VWP was inconsistent with the U.S. Interest in enforcement of the immigration laws of the United States. Accordingly, on February 21, we published in the Federal Register an emergency rule that terminated Argentina's VWP designation. We will continue to ensure that every participating country consistently meets their requirements to stay in the program.

Since its inception, the INS has continually evaluated the program to determine if additional safeguards are needed to protect the American public. Although much work remains, we feel these efforts are essential to the security of the VWP.

I was pleased that the OIG in its follow-up report recognized that the INS has taken the initiative to bring law enforcement concerns to the forefront of the VWP.

Mr. Chairman, striking a proper balance between competing U.S. Interests is an important goal for the VWP. We cannot fail to recognize that the program has promoted U.S. Trade and tourism and has enhanced foreign relations with designated countries.

Let me be clear in saying that those countries that continue to meet the VWP requirements will continue in the program. However, those that do not meet the program's security requirements will be considered for termination. The INS will remain committed to continuing our active efforts to ensure our security under the VWP.

This concludes my statement. I will be happy to respond to any questions.

[The prepared statement of Mr. Becraft follows:]

PREPARED STATEMENT OF PETER M. BECRAFT

Thank you very much, Mr. Chairman, Members of the Subcommittee. I welcome the opportunity to testify on the Visa Waiver Program (VWP). Since its inception in 1988, the VWP has grown tremendously and has proven extremely popular with nationals of visa waiver countries and with the travel and tourism industry. The

program has expanded from two countries in 1988 to 29 countries in 2001. In fiscal year 2001, the INS recorded approximately 17 million arrivals under the program.

The program has also succeeded in providing significant economic benefit to the United States through facilitation of the travel of tourists and businesspersons. In recent years, the travel and tourism industry has repeatedly been the nation's leading services export. In 2000, for example, it is estimated that foreign visitors generated \$102.7 billion in direct expenditures and contributed \$14 billion to the industry's trade surplus that year. In addition to stimulating tourism and commerce, the program has allowed the Department of State to concentrate its resources on greater risk areas in the visa process.

Irrespective of the program's overall success in delivering the intended results of increased travel and tourism and more effective use of consular resources, there are also serious areas of concern which the INS has noted in previous testimony to this Committee and which take on added importance after the events of September 11.

HISTORY AND DESCRIPTION OF THE PROGRAM

In 1986, the Immigration Reform and Control Act authorized the Visa Waiver Pilot Program as Section 217 of the Immigration and Nationality Act (INA). The program's purpose was twofold: (1) to facilitate low-risk travel to the United States and (2) to allow the Secretary of State to conserve and reallocate consular resources. In October of 2000, the Visa Waiver Permanent Program Act made the pilot program permanent and included program modifications to enhance the law enforcement and security interests of the United States.

Under the program, visitors for pleasure or business from countries designated by the Attorney General, in consultation with the Secretary of State, who meet the express statutory criteria may be admitted to the United States without a visa for a period of up to 90 days. Because travelers under the program do not need a visa, no checks are done prior to their applications for admission at ports-of-entry (POE). However, VWP applicants for admission must waive in writing any right to review of an immigration officer's determination that they are inadmissible or removable from the United States. They may only contest removal on the basis of an application for asylum. They are also required, if arriving by air or sea, to travel on a transportation line that is signatory to an agreement with the INS permitting the line to transport passengers under the program.

The four criteria for inclusion of countries in the program are:

1. that the country offer reciprocal privileges to United States citizens;
2. that the country have had a nonimmigrant visa refusal rate of less than 3 percent for the previous year;
3. that the country certify that it issues, or by October 1, 2003, will issue, a machine-readable passport; and
4. that the Attorney General, in consultation with the Secretary of State, makes a determination that inclusion of the country in the program does not compromise the law enforcement interests including either immigration law enforcement or security interests of the United States.

From the commencement of the program all relevant agencies have taken the review of potential participants most seriously. Security concerns have always been of paramount importance in this process, and have been emphasized in the recent development of an interagency protocol for review of candidate countries and evaluation of countries already in the program. Since October 2000, the VWP has required the Government to conduct periodic evaluations of the effect of each program country's designation based on the law enforcement interests, immigration law enforcement interests, and security interests of the United States. The program also provides that the Attorney General, in consultation with the Secretary of State, shall immediately terminate a country's designation if an emergency occurs in the program country that threatens U.S. interests, including the interest in enforcement of the immigration laws. Such emergencies include, but are not limited to, the overthrow of a democratically-elected government, war, a severe breakdown in law and order affecting a significant portion of the country's territory, and a severe economic collapse in the program country. Both the INS and the Department of State welcomed these changes and their clear contribution to the effective and orderly administration of the VWP.

Although the program has made it easier to travel to the United States, it has produced new challenges for the INS. While the program has significantly reduced consular and INS benefit workload and facilitated travel to the United States, it has increased the burden placed on Inspectors at the POEs. As travelers to the United States under the program do not obtain a nonimmigrant visa in advance, they apply

for admission at the POE with only a passport and a signed form. Thus, they are not subject to the consular screening that would accompany visa issuance. Consequently, fraudulent document vendors and alien smugglers have targeted the passports of visa waiver countries. As the Department of State has increased the fraud resistance of the U.S. nonimmigrant visa, so too has the attractiveness of using a visa waiver country passport increased for third-country nationals seeking illegal entry into the United States.

The attraction of smugglers, document vendors, and illegal immigrants to visa waiver country passports is encouraged by several factors, including: limited security features present in some passports, the existence, in some countries, of multiple passport-issuing authorities, and weak controls to protect issuance procedures and blank passport storage in some visa waiver countries. In the latter case, access to blank visa waiver country passports eliminates the need to eradicate existing biographic information, thereby simplifying the document vendor's job and reducing the risk of detection. Progress is being made in this area and in the area of carrier provision of advance passenger information to inspectors at the POEs—a long-awaited mandate which was incorporated in the VWP Act, however, vulnerabilities still exist which present serious security and law enforcement concerns.

At this point, I would like to focus on two specific issues regarding the program: (1) the INS' preliminary views on the *Follow-Up Report on the Visa Waiver Program* issued by the U.S. Department of Justice Office of the Inspector General in December 2001; and (2) the vulnerability of program abuse by terrorists.

OFFICE OF INSPECTOR GENERAL'S DECEMBER 2001
FOLLOW-UP REPORT ON THE VISA WAIVER PROGRAM

In March 1999, the Office of the Inspector General (OIG) issued an inspection report, *The Potential for Fraud and INS's Efforts to Reduce the Risks of the Visa Waiver Pilot Program*. The OIG report "determined that the [then] Visa Waiver Pilot Program facilitated the illegal entry of 'terrorists and criminals' into the United States." The first recommendation of the OIG report, which was reiterated in the follow up, stated that INS should modify the inspection process to ensure that the passport number of each VWP applicant is checked against the lookout system. The second recommendation of the OIG report stated that INS should designate a unit to systematically collect information on stolen blank VWP passports and ensure timely and accurate entry of stolen passport numbers into the lookout system. The third recommendation of the OIG report stated that the INS should develop clear guidelines for the entry of passport numbers when creating lookout records. The INS, in response to the OIG Report of March 1999, did issue clear guidelines to ensure that field officers check every passport number in the Interagency Border Inspection System (IBIS) and inform the lookout system when field offices receive notice of missing or stolen passports. The follow up report identified these efforts, but suggested that INS should redouble its efforts to ensure that field officers fully understand and comply with the guidance. The INS shares the Inspector General's emphasis on proper VWP security. Accordingly, we have re-issued the policy directive to ensure field office compliance. Further, we will now work to ensure oversight of these procedures through our Office of Internal Audit's INSpect reviews.

PROGRAM VULNERABILITY

As I noted in my opening remarks, the program allows foreign nationals from designated countries to apply for admission to the United States without any checks prior to their arrival. Under the normal nonimmigrant visa application process, consular officers at U.S. embassies abroad require specific information from travelers before issuing a nonimmigrant visa. While the overwhelming majority of VWP applicants are law-abiding individuals, some terrorists and criminals have taken advantage of the program to gain access to the United States. Unlike the traditional double-check nonimmigrant system, the program allows only one opportunity to identify inadmissible aliens. While both the visa issuance and the immigration inspection processes combine a lookout check with individual questioning of each alien, officers at POEs most often apprehend inadmissible aliens as a result of the interview process rather than as a result of a "hit" in the IBIS lookout system. Simply put, the IBIS query is used to assist the immigration officer's interview; it is not a substitute for the interview.

Unfortunately, some countries that participate in the VWP have, over the years, had significant thefts of blank passport stock, which are not always reported to the INS. Unreported blank passport thefts make the program more susceptible to terrorists and criminals. When a person attempts to enter the United States with a fraudulent passport, most often no lookout exists on the passport itself. For in-

stance, Ramzi Yousef and Ahmad Ajaj used fraudulent visa waiver country passports to travel to the United States in furtherance of their conspiracy to bomb the World Trade Center in 1993. Yousef and Ajaj boarded the flight to the United States together, Yousef with a British passport and Ajaj with a Swedish passport. At the time of the inspection no lookout existed on those altered passports, but INS officers were still able to intercept the two men as a result of the inspection interview. In two separate instances last year, two individuals identified as posing threats to the United States used lawfully issued VWP passports in apparent attempts to attack U.S. interests. Despite these security concerns, eliminating the program will not eliminate the ability of terrorists to enter the United States.

PROACTIVE INS INITIATIVES

The INS, through its worldwide placement of agents, inspectors, investigators, and intelligence officers, and its overseas district offices, seeks to anticipate and continually review procedures that foreign governments use that may impact the security of the United States. This is being done with the cooperation of foreign governments. Let me give you a specific example of this proactive work, particularly as to how it relates to the VWP. Under the recently passed program amendments, the Attorney General is required to conduct periodic reviews of each country's continued eligibility in the program, based on the law enforcement and security interests of the United States. Under this provision, prior to September 11, INS had already begun making arrangements for visiting six program countries in 2001. In addition, the INS and the Department of State are working to ensure that participating countries have, or institute, vigorous passport controls and report passport theft promptly to the government.

By the end of 2001, highly trained INS specialists in airport and land border physical security, fraudulent documents, intelligence, and inspections procedures had visited these six countries. Our specialists, assisted by Department of State Visa Office personnel and consular officials from our embassy in each country, reviewed numerous factors and conditions in the six countries that may impact on the law enforcement (including immigration law enforcement) or security interests of the United States. They met in country with representatives of U.S. and foreign law enforcement agencies, and took part in numerous on-site inspections of air, land, and sea POEs. While we have yet to finalize the first six country evaluations, six additional countries will undergo the same review process later this year.

While the ongoing country evaluations are very important, we also recognized that emergent circumstances in Argentina merited consideration of the use of the emergency termination provisions contained in the INA. Thus, on December 21, 2001, we began the process that resulted in a determination that Argentina's participation in the VWP was inconsistent with the U.S. interest in enforcement of the immigration laws of the United States. Accordingly, on February 21, we published in the Federal Register an emergency rule that terminated Argentina's VWP designation. We will continue to ensure that every participating country consistently meets their requirements to stay in the program.

Since the inception of the program, we have been continually evaluating to determine if additional safeguards are needed to protect the American public. Specifically, among other things, we have led the effort to revise the protocol on evaluating VWP country designations. We have incorporated several law enforcement and security measures into the draft protocol. Although much work remains, we were pleased that the OIG follow-up report recognized that "the INS has taken the initiative to bring law enforcement concerns to the forefront of the VWP."

CONCLUSION

Those countries that continue to meet the VWP requirements will continue in the program. However, those that do not meet the program's security requirements will be considered for termination. The INS is committed to continuing our active efforts to ensure U.S. security under the VWP.

Striking a proper balance between competing U.S. interests is an important goal for the VWP. Although the VWP remains attractive to prospective illegal entrants for the same basic reasons it is for the legitimate traveler (that is, it makes it easier to come to our country), we cannot fail to recognize that the program has promoted U.S. trade and tourism and enhanced foreign relations with designated countries.

This concludes my testimony and I will be happy to respond to any questions.

Mr. GEKAS. We thank the gentleman, and we turn to Professor Alexander.

**STATEMENT OF PROFESSOR YONAH ALEXANDER, POTOMAC
INSTITUTE FOR POLICY STUDIES**

Mr. ALEXANDER. Thank you. I am grateful for the opportunity to appear today before the Subcommittee. Mr. Chairman, with your permission, in addition to my written statement, I would like to leave a number of studies that we published recently because they provide a context to the deliberations today.

Mr. GEKAS. Without objection, the materials will be entered into the record and distributed to the Members.

Mr. ALEXANDER. Thank you very much. Now, I would like to move on to specifically discuss the network of the al Qaeda group in Europe. As all of us know, the international network of terrorism is one of the major challenges that we are facing today.

If we look at the experience of the past three decades, it shows that terrorist groups thrive on collaboration across national boundaries, shared ideologies and commitments to radical strategies. This kind of informal relationship among the various terrorist groups and state sponsors have resulted in a national, regional and global framework for terrorism.

Now, many of the subnational groups will find it more critical than ever to develop stronger links today. Bin Ladin is certainly the most elaborate international network operating today in the world. After the Middle East and Asia, Europe is becoming a major center that we have to consider with grave concern.

Clearly, the September 11th attacks are connected with al Qaeda, and in fact, if we study the al Qaeda operations around the world, we can find that al Qaeda has links in some 70 countries around the world. For example, in Europe it covers almost the entire continent. Albania, Belgium, Bosnia, Croatia, Denmark, France, Germany, Ireland, Italy, Kosovo, Luxembourg, Netherlands, Spain, Sweden, Switzerland, Turkey, and the United Kingdom have bases of the al Qaeda, and in fact even Monaco provides some transit opportunities for the al Qaeda.

Now, we are studying this problem in terms of the nature of the threats of citizens who are coming from Europe, as you indicated, Mr. Chairman, before. In other words, the particular concern is that the Visa Waiver Program opens up a new vulnerability to American security interests. Since the al Qaeda network is operating to a larger or smaller extent in most of those participating countries, some of these citizens have served as operatives for the transnational terrorist groups to easily enter the U.S. For potential attacks.

Now, if we survey the al Qaeda network in Europe, we can see an environment of citizens of a number of the nations participating in the VWP program. In addition, I would like to point out that there are many sympathizers in Europe who are not exactly citizens or members of the al Qaeda network; nevertheless they are linked, strange bedfellows with each other. So we have to look at their activities as well.

We cannot survey today, within the time allotted to me, to review the activities of the various groups in Europe as well as the individuals. However, I would like to mention one or two; for example, Zacarias Moussaoui. As we know, the French national of Moroccan descent that was reported to be the 20th hijacker on the

United Airline Flight 93 was indicted in Federal Court in Virginia, as we know.

In addition to him, we are familiar with some other operatives who are working, for example, with the al Qaeda network in Spain, in Germany, and elsewhere. One of them of course is Richard Reid from the United Kingdom, who attempted to light the fuse in his explosive-laden sneakers on American Airlines Flight 63 from Paris to Miami. And there are many others who are involved in these activities.

Basically, I think the September 11th attacks demonstrated that the United States has failed to appreciate the magnitude and implications of the terrorist threat. It is now becoming crystal clear that terrorism employed by aliens in the United States with the direct and indirect involvement of American citizens is no longer a minor nuisance or irritant, but rather a major challenge to American security interests.

What are then some of the policy implications?

First, there are no simplistic and complete solutions to the dangers of terrorism.

Second, the vulnerability of modern society and its infrastructure requires the United States to both unilaterally and in concert develop credible responses and capabilities to minimize future threats.

And, third, security measures must be taken to make certain that institutions with legitimate and often humanitarian ties to a foreign cause are, in fact, legitimate and not controlled by international terrorist organizations.

Fourth, immigration procedures such as establishing verification practices to make certain that individuals who receive visas for particular purposes allow investigators to identify and detain, if necessary, foreign nationals in the United States who are not conforming to the terms of the visa.

Fifth, the use of natural identification cards for U.S. citizens and aliens who are in the United States should be considered in order to minimize the risk of terrorists using fraudulent passport visas and credit cards.

And, sixth, in waging a war against international terrorism, law enforcement agencies must reconcile the needs of national security with the requirements of civil liberties.

Thank you.

[The prepared statement of Mr. Alexander follows:]

PREPARED STATEMENT OF YONAH ALEXANDER

I. INTRODUCTION

I am grateful for the opportunity to appear today at the Oversight Hearing before the House Committee on the Judiciary (The Subcommittee on Immigration and Claims) on "The Implications of Transnational Terrorism for the Visa Waiver Program."

As an institution of the academic community, the International Center for Terrorism Studies based at the Potomac Institute for Policy Studies in Arlington, VA, has an intellectual obligation, as well as a moral and practical responsibility, to participate in the efforts by the U.S. Congress to arrest the virus of terrorism. On a personal level, I have had the privilege of supporting the work of Congress in this important field of public concern for some three decades, including testifying before various congressional committees; providing advice to members of Congress; participating in special research projects with the Office of Technology Assessment (OTA);

contributing studies published by Congress; and organizing seminars and briefings for members of Congress and congressional staff.

With your permission, Mr. Chairman, I would like to mention two examples of academic-congressional interface in the wake of the September 11 attacks on America. The first relates to the statement by Delegate Eni Faleomavaega from American Samoa, a ranking member of the Subcommittee on East Asia and the Pacific, who inserted in the Congressional Record on September 12, 2001 (page H5512) some of my views on counter-terrorism strategies:

Mr. Speaker, a noted expert on counterterrorism, Professor Yonah Alexander of the Potomac Institute, has long advocated that the world's democracies must develop an effective strategy to face this terrible challenge against international terrorism. Professor Alexander notes, and I quote, "The only light at the end of the tunnel is for a number of nation states and responsible governments to take concerted action against terrorism. Terrorism against one is terrorism against all, regardless of the blood spilled. It is the same red blood. To combat terrorism, no country can deal with this unilaterally without cooperation and support from others."

Unless a global strategy can be worked out, Professor Alexander concludes that the existence of civilization itself is seriously at risk.

Subsequently, I have elaborated on some of these aspects at a forum held on December 4, 2001, on "Terrorism and Homeland Defense: Where Do We Go From Here?" organized by the Potomac Institute for Policy Studies with the participation of Representative Jane Harman (D-CA), Ranking Member, Subcommittee on Terrorism and Homeland Security; Representative Curt Weldon (R-PA), Chairman, Military Procurement Subcommittee; and my colleague Mr. Michael S. Swetnam, Chief Executive Officer (CEO) and Chairman, Potomac Institute for Policy Studies and member of the Technical Advisory Group to the United States Senate Select Committee on Intelligence.

Some of the relevant comments that I have made at this forum have been incorporated in my statement before your subcommittee. My focus today is to briefly present an overview of the threat of conventional and unconventional terrorism, describe the nature of the challenges in Europe with Usama bin Laden's al-Qaida network in the region and its links to the United States, and offer some implications for the Visa Waiver Policy.

II. THE THREAT OF MODERN TERRORISM

Scores of countries have experienced sporadic and relentless subnational and government-sponsored terrorism in the post-World War II period. Epitomizing the state of anarchy of contemporary life and increasingly becoming a universal nightmare, terrorism includes: kidnapping of businesspeople, assassination of political leaders, bombing of embassies, and hijacking of aircraft. Modern terrorism, in contrast to its older features, has introduced a new breed of warfare in terms of threats, technology, victimization, and responses.

Perhaps the most significant dangers that evolve from modern day terrorism are those relating to the safety, welfare, and rights of ordinary people; stability of the state system; health of economic development; expansion of democracy; and possibly survival of civilization itself. And yet, on September 11, 2001, Americans were stunned to witness the unprecedented drama of terrorists striking a devastating blow at the center of the nation's commercial and military powers.

Thus, despite the end of the Cold War and the evolving era of the New World Order, terrorism remains as threatening as ever. Undoubtedly, conflicts emerging from ideological, religious, and national animosities will continue to make terrorism a global problem well into the twenty-first century. The vulnerability of modern society and its infrastructure, coupled with the opportunities for the utilization of sophisticated high-leverage conventional and unconventional weaponry, requires states, both unilaterally and in concert, to develop credible responses and capabilities to minimize future threats.

Ensuring the safety and interests of its citizens at home and abroad will therefore continue to be every government's paramount responsibility in the coming months and years. Understanding the methods of operation employed by terrorists, identifying the threats and specific targets, both present and future, and knowing the damage and consequences that may result from acts of terror violence will assist governments, with the help of private industry, in responding to the reality of terrorism.

III. TERRORISM AND EUROPE: A HISTORICAL OVERVIEW

Terrorism—the unlawful use of physical force and psychological intimidation by substate or clandestine state agents against noncombatant targets, primarily intended to achieve social, economic, political, strategic, or other objectives is not new to Europe. In the Middle Ages, several European maritime states employed pirates to terrorize the seas and further specific foreign policy aims. The “reign of terror” from “above” and “below” became a common practice during the French Revolution.

In the nineteenth century, a broad spectrum of indigenous European groups, ranging from anarchists to national extremists, resorted to violent activities to attain some “higher goals.” The assassination of Tsar Alexander II in 1881 is one example of this kind of terrorism. In the twentieth century, the murder of the Austrian archduke in Sarajevo by a Serbian extremist ignited the First World War. The period between the two world wars also witnessed terrorist activities in Europe, with the assassination of King Alexander of Yugoslavia as a case in point.

It was not, however, until the 1960s that terrorism became a permanent fixture of life in Europe. The Paris student revolt in 1968, the emergence of indigenous separatist movements, the rise of Palestinian extremism, and the expansion of state terrorism by countries, such as Iran, Iraq, Syria, Libya, the Soviet Union, East Germany, and Bulgaria, are some of the contributing factors that encouraged the intensification of terrorism in Europe.

During the past forty years hundreds of indigenous, subnational groups, mostly acting independently and sometimes as proxies of foreign governments, have proliferated in Europe. Seeking to achieve ideological, nationalist, or other goals, these groups include such major and minor actors as the Armenian (ASALA), Basque Fatherland and Liberty (ETA), Combatant Communist Cells (CCC), Direct Action (DA), First of October Anti-Fascist Resistance Group (GRAPO), Irish National Liberation Army (INLA), Justice Commandos of the Armenian Genocide (JCAG), Provisional Irish Republican Army (PIRA), Red Army Faction (RAF), Red Brigades (RB), Revolutionary Cells (RZ), and the Revolutionary Organization 17 November (17 N).

These urban terrorist groups—some highly structured (e.g., Red Brigades) and others loosely organized (e.g., CCC)—have either deliberately selected their targets or indiscriminately attacked their victims: Europeans and others.

To be sure, various European groups collaborated with each other as well as with non-European organizations, primarily those based in the Middle East, such as the Palestine Liberation Organization (PLO) and in Asia, such as the Japanese Red Army. This informal and formal relationship included ideological alliances, propaganda support, diplomatic assistance, intelligence, weapons supply, and operations. For instance, the terrorist team that carried out the 1975 raid on the Organization of Petroleum Exporting Countries (OPEC) headquarters in Vienna consisted of two German terrorists, several Palestinians, and the infamous Carlos, or “The Jackal,” who was operating on behalf of the Popular Front for the Liberation of Palestine (PFLP).

Clearly, European groups also benefited from indirect and direct state support. Suffice to mention the help provided by the State Security Service (Stasi) of the German Democratic Republic to the Red Army Faction (RAF) in the 1980s.

Similarly, Bulgaria, through its National Intelligence Service and the National Service for the Protection of the Constitution, extended help to a variety of foreign terrorist groups from the Middle East (e.g., Syria, Lebanon, Jordan, and Iraq) and from North Africa (e.g., Algeria) operating in Europe. This help included not only financial assistance and arms supply, but also logistical aid in drug smuggling operations.

Thus, as a result of European-based ideological and political causes, coupled with external state and substate linkages, indigenous groups resorted to physical and psychological extralegal violence as a weapon against established regimes. It is not surprising, therefore, that, since the 1970s, Europe became one of the most terrorist-prone regions in the world.

In the 1980s Europe again ranked high on the terrorists’ map. Tragically, the positive political-military developments in Europe in 1989 and 1990—particularly the tearing down of the Berlin Wall, the democratization of Eastern European countries, and even the apparent end of the Cold War—have not diminished the threat of terrorism in the region.

Although during the 1980s and the 1990s Europe moved toward economic and political unification, the region without borders offered new security vulnerabilities to determined indigenous and foreign terrorist groups. In the first place, many of the outstanding roots of domestic conflict (e.g., ETA in Spain) as well as external problems (e.g., the Middle East) remained. Second, new terrorist dangers were created

by the forces of nationalism and ethnic assertiveness unleashed with the collapse of the Soviet Union and the former Yugoslavia.

Admittedly, by 2000 Western Europe had the largest decline in the number of international terrorist incidents of any region. Nevertheless, in the aftermath of the September 11, 2001, attacks, it became increasingly evident that Europe emerged once again as a major base for terrorist operations in the region and beyond.

The network of al-Qaida in Europe provides an elaborate infrastructure for an escalation of violence with dire consequences to the security interests of the United States and its friends and allies.

IV. INTERNATIONAL NETWORK: AN OVERVIEW

Experience over the past three decades shows that terrorist groups thrive on collaboration across national boundaries. Shared ideologies and commitments to radical strategies, such as professed struggles against capitalism, imperialism, racism, Zionism, and democracies, motivate groups to work together on an international scale.

The informal and formal relationships among various terrorist groups and state sponsors have resulted in a national, regional, and global framework for terror. The international character of many terrorist efforts often compounds the difficulty of identifying the initiator or sponsor of a given terrorist act. The Abu Nidal Organization, for example, has received safe haven, financial aid, training, logistical assistance, and other help, including selected operational support from Iraq, Libya, and Syria.

An interesting aspect of terrorist networks is the formation of a "regional" framework within which like-minded groups collaborate. A case in point is the European "anti-imperialist" network that consisted of several Marxist-Leninist groups, such as the Red Army Faction, Direct Action, and the Red Brigades.

Substantial state-sponsored support of terrorist groups, particularly by the former Soviet Union and other Eastern European nations, has decreased while international counter-terrorist efforts have increased in scope and effectiveness. As a result, many subnational perpetrators will find it more critical than ever to develop stronger linkages.

Currently, Usama bin Laden's al-Qaida is the most elaborate international network operating in Europe and elsewhere.

As we know, the September 11 catastrophic attacks were connected to al-Qaida (the Base). Al-Qaida (also known as the International Front for the Jihad against Jews and Crusaders, the Group for the Preservation of the Holy Sites, and the Islamic Army for the Liberation of the Holy Places) operates in some sixty countries. Al-Qaida seeks to "unite all Muslims and establish a government which follows the rule of the Caliphs."

To achieve al-Qaida's goal, Muslim regimes, viewed as corrupted by Western influence, must be overthrown by force. Since in the viewpoint of bin Laden the United States supports corrupt governments, such as Saudi Arabia and Egypt, he declared "jihad" (Holy War) against the "Great Satan" (the United States). Bin Laden's disdain for the United States also stems from the U.S. presence of troops in Saudi Arabia—home to the two holiest sites of Islam. In several fatwas (religious rulings) issued by bin Laden and his associates in the past decade, Muslims were instructed to kill Americans, including civilians, anywhere in the world where they can be found. Muslims are, then, duty-bound to prepare as much force as possible to attack the "enemies of God."

It is not surprising, therefore, that as early as 1992, al-Qaida declared that the U.S. military presence in Saudi Arabia, Yemen, and the Horn of Africa should be attacked. Major al-Qaida operations against the United States include: the October 3–4, 1993, killing of 18 servicemen on an anti-terrorism mission in Somalia; the November 13, 1995, car bomb explosion outside the American-operated Saudi National Guard training center in Riyadh, Saudi Arabia, killing 5 Americans and 2 Indians; the June 25, 1996, car bombing attack at Khobar Towers, a U.S. Air Force Housing complex in Dhahran, Saudi Arabia, killing 19 soldiers and wounding hundreds more; the August 7, 1998, 2 truck bombings outside the U.S. embassies in Nairobi, Kenya, and Dar es Salaam, Tanzania, killing 234, 12 of them American, and wounding over 5,000 others; and the October 12, 2000, suicide bombing of the *USS Cole*, killing 17 and wounding 39 American sailors in Aden harbor, Yemen.

Other attacks by bin Laden's network have reached the United States itself. On February 23, 1993, a bomb was detonated in a garage at the World Trade Center in New York, killing 6 people and injuring over 1,000. On June 25, 1993, a Pakistani terrorist opened fire outside the headquarters of the Central Intelligence Agency (CIA) in Virginia, killing 2 and wounding 3 CIA employees.

To carry out these operations, particularly the most daring and devastating September 11, 2001, attack, al-Qaida established an effective organizational structure comprised of several key command and control components: the majlis al shura (consultation council) that considers and approves major policy and actions, including the issuance of fatwas and general terrorist strategies; the military committee that focuses on specific operations against its enemies; the business committee that oversees economic and financial matters; the religious committee that deals with theological matters; the media committee that works on printing information; and a travel office.

This organizational structure was developed to facilitate the activities of al-Qaida and its affiliate groups around the world. It is increasingly becoming evident that in the United States there exists an elaborate network of different militant Islamic-oriented cells linked with several well-known movements such as Hizballah (Lebanon), Hamas (Palestinian Authority), Islamic Jihad (Egypt), and the Armed Islamic Group (Algeria). These and other terrorist groups have representatives and "sleepers" also in neighboring Canada and in every region of the world.

The co-founders of al-Qaida in the early 1990s were the "Emir" bin Laden (Saudi Arabian), Ayman al-Zawahiri (Egyptian), and Muhammed Atef (Egyptian). A special effort was made by the movement to recruit American members, such as Ali Abdelsoud Mohamed. Born in Egypt and becoming a naturalized American citizen, Mohamed pleaded guilty on October 20, 2000, to 5 counts of conspiracy to attack American targets. Currently, he is cooperating with U.S. authorities.

Already on high alert as a result of the September 11 attacks, the anthrax scare incidents, and the warnings of further terrorist assaults on the United States, American security officials from the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA) have joined agencies of other nations, such as Pakistan's Inter-Services Intelligence, in probing the possibilities of al-Qaida possessing weapons of mass destruction. It is noteworthy that as early as May 1998, bin Laden issued a statement entitled "The Nuclear Bomb of Islam," in which he proclaimed that it is the duty of Muslims to employ even unconventional capabilities, including the use of nuclear weapons.

U.S. coalition intelligence operatives in Afghanistan discovered credible evidence related to al-Qaida's intensive efforts to obtain weapons of mass destruction. For instance, authorities found documents in al-Qaida's safe houses in Kabul related to the methodologies in the use of biological, chemical, and nuclear weapons. The discovery of laboratory equipment, bio-terrorism manuals, and chemical and biological training facilities elsewhere in Afghanistan are additional ominous illustrations of the intentions of bin Laden's network to resort to super-terrorism.

A warning for such an eventuality was issued by the United States Commission on National Security/21st Century. In a report released on March 15, 2001, the commission asserted, "Global trends in scientific, technological, economic, socio-political and military-security domains . . . will produce fundamental qualitative changes in the U.S. national security environment." Furthermore, the report concludes, "The United States will become increasingly vulnerable to hostile attack on the American homeland, and U.S. military superiority will not entirely protect us."

V. THE AL-QAIDA NETWORK IN EUROPEAN COUNTRIES PARTICIPATING IN THE VISA WAIVER PROGRAM

In the aftermath of the September 11, 2001 tragic attacks, President George W. Bush issued a Homeland Security Presidential Directive 2 "Combating Terrorism Through Immigration Policies" in which he detailed American National Policy as follows:

"The United States has a long and valued tradition of welcoming immigrants and visitors. But the attacks of September 11, 2001, showed that some come to the United States to commit terrorist acts, to raise funds for illegal terrorist activities, or to provide other support for terrorist operations, here and abroad. It is the policy of the United States to work aggressively to prevent aliens who engage in or support terrorist activity from entering the United States and to detain, prosecute, or deport any such aliens who are within the United States."

What is of particular concern is the fact that the Visa Waiver Program (VWP), which enables citizens of participating European countries to travel to the United States for tourism and business for ninety days or less without obtaining a U.S. visa opens up a new vulnerability to American security interests. Since the al-Qaida network is operating to a larger or smaller extent in most of the participating countries, some citizens who serve as operatives for the transnational terrorist group can easily enter the United States for potential attacks in this country. The following

survey of the al-Qaida network in Europe briefly describes some activities of the movement and portrays the involvement of selected citizens of a number of the nations participating in the VWP.

AUSTRIA

During the 2001 Embassy Bombing Trials in New York City, one of the defendants, *Wadih el Hage*, had in his possession cards from Austrian banks. Hage, an American citizen, was able to conduct business throughout Europe without hindrance. As part of the financial war on terrorism, Austria has been active in the freezing of terrorist assets.

BELGIUM

Tarek Maaroufi: Belgian national born in Tunisia who was arrested in December 2001 for violating a 1979 law forbidding Belgians from recruiting for a foreign army. American intelligence, along with Italian authorities, believe that Maaroufi was involved in planning an armed attack on the U.S. Embassy in Rome in January 2001 with a number of Milan-based Tunisians, led by Essid Sami Ben Khemais, currently on trial in Milan.

DENMARK

Dr. Ayman al-Zawahiri: Al-Zawahiri is believed to have lived in Denmark and Switzerland in the early 1990s, where he is believed to have utilized several fake identities, including Dr. Abdel Muaz, used to travel to America to raise money. An official stated "Dr. Zawahiri's freewheeling role across western Europe during the early 1990s raises questions about the security and asylum policies of a number of European nations and about their refusal to act on information provided by the Egyptian Government."¹

FRANCE

Abdel Salem Boulanouar: French-Algerian with ties to Ahmed Ressam, Fateh Kamel, and the Moro Islamic Liberation Front. Arrested June 24, 2000, in Paris after being deported by the Philippines.²

Djamel Beghal: A 35 year-old French-Algerian who was arrested in September 2001 in the United Arab Emirates and extradited to France. Beghal confessed to French investigators that, along with Kamel Daoudi, he was plotting to attack the American Embassy in Paris.³

Jerome Courtailler: A French national, Jerome Courtailler, a former drug addict, moved to London, converted to Islam, and joined the mosque of radical cleric Omar Mahmoud Othman Omar. Jerome eventually went to Afghanistan to train in the terrorist camps and later moved to Rotterdam to establish a Dutch cell of al-Qaida. Courtailler was involved in the plan to blow up the American Embassy in Paris. Arrested in a raid by the Dutch police on September 13, 2001, he is currently being held by the Dutch authorities.

Kamel Daoudi: A 27 year-old French-Algerian who was arrested in Great Britain in September 2001 and extradited to France in connection with the planned suicide attack on the American Embassy in Paris.⁴

Zacarias Moussaoui: A 34 year-old French national of Moroccan descent, Moussaoui converted to a strict form of Islam in the early 1990s while living in Great Britain. He was reported to be the "20th hijacker" on United Airlines Flight 93. He was indicted in federal court in Virginia on December 11, 2001, on multiple charges, including conspiracy to commit acts of terrorism transcending national boundaries, conspiracy to commit aircraft piracy, conspiracy to destroy aircraft, conspiracy to use weapons of mass destruction, conspiracy to murder US government employees, and conspiracy to destroy US government property. He could face the death penalty if convicted on four of these charges.

GERMANY

Said Bahaji: A German of Moroccan origin, he was the roommate of the ringleader of the September 11 attacks, Egyptian Mohamed Atta, and the original "20th hijacker" Yemeni Ramzi Binalshibh, who was unable to enter into the United States. German authorities accuse Bahaji along with Binalshibh of forming a terrorist organization and for causing 3,000 deaths.⁵ A warrant was issued for his arrest in September 2001.

IRELAND

¹"Bin Laden's Right Hand Man," BBC News, September 24, 2001.

²Donald G. McNeil Jr., "French Hold Suspected Terrorist Tied to bin Laden," *New York Times*, June 28, 2000, p. A4.

³"Bin Laden 'Named' in Paris Plot," *BBC News*, October 2, 2001.

⁴*Ibid.*

⁵"Germany Names Yemeni Suspect," *CNN*, September 21, 2001.

Abraham Bazir: A Libyan-born Irish citizen, Bazir was arrested on October 10, 2001, along with Algerian Zaid Haich, and Libyans Mohammed Al Masrati and Abdul Quadir, by Dublin police on accusations of fundraising and providing false identification to al-Qaida network. The police also seized documents, including false passports and phone numbers, and £11,000 in Irish punts.

SPAIN

Imad Eddin Barakat Yarbass: A Spanish citizen of Syrian origin, Yarbass, a used car dealer and the leader of al-Qaida, was arrested in November 2001, in Madrid.⁶ Yarbass, along with seven others, was accused of recruiting people to al-Qaida terrorist training camps and providing false identification for the recruits.⁷

Yusuf Galan: One of the Spanish national suspects detained by the authorities was Yusuf Galan, who under his former name of Luis Jose Galan Gonzalez was active in Herri Batasuna, the political wing of the Basque terrorist group ETA.⁸ This could possibly constitute a tie between al-Qaida and non-Islamic terrorist organizations.

Switzerland

Dr. Ayman al-Zawahiri: Al-Zawahiri, the second in command in the al-Qaida network, is believed to have lived in Denmark and Switzerland in the early 1990s. Swiss bank accounts are suspected to hold assets of al-Qaida and its affiliates. Egyptian security officials state that al-Zawahiri supposedly carries a Swiss passport under the name of Amin Othman,⁹ although Switzerland denies he was ever issued a Swiss passport.¹⁰

UNITED KINGDOM

Richard Colvin Reid: A British national of mixed European and Jamaican descent, Reid, 28, attempted to light a fuse to his explosive-laden sneakers on American Airlines flight 63 from Paris to Miami on December 22, 2001. On January 16, 2002, Reid was charged with nine counts, including two counts of interfering with a flight crew, attempted use of a weapon of mass destruction, attempted homicide, placing explosive devices on an aircraft, attempted murder, attempted destruction of an aircraft, using a destructive device during and in relation to a crime of violence, and attempted wrecking of a mass transportation vehicle.¹¹ Reid can face up to five life sentences if convicted.

Ahmed Omar Saeed Shiekh: A British citizen of Pakistani origin, Omar attended the London School of Economics, dropping out in 1992 to become an aid worker in Bosnia. Omar was radicalized by his stay in Bosnia and moved to Pakistan, joining the Kashmiri terrorist group Harakat ul-Muhajideen (HUM). He was captured by Indian forces in 1994 for kidnapping four Western tourists but was released after the hijacking of an Indian Airlines jet in December 1999. Omar then joined the Jaish-e-Mohammad (JEM) and was involved in the kidnapping and murder of *Wall Street Journal* journalist Daniel Pearl in February 2002. Omar was secretly indicted by the United States in November 2001 and is currently in Pakistani custody.

VI. CONCLUSION: IMPLICATIONS FOR THE VISA WAIVER POLICY

The September 11 "Day of Infamy" attacks have most dramatically demonstrated that the United States has failed to appreciate the magnitude and implications of the terrorist threat. It is now becoming increasingly clear that terrorism employed by aliens in the United States, with the direct or indirect involvement of naturalized American citizens, is no longer a minor nuisance or irritant but is, rather, a major challenge to American security interests.

The policy implications are six-fold:

First, there are no simplistic or complete solutions to the dangers of diaspora terrorism. Since the tactics utilized to challenge the authority of the United States continue to be novel, so, too, must be the response by the government. We must also be cautious to avoid the kinds of overreaction that could lead to repression and the ultimate weakening of the democratic institutions that we seek to protect.

Second, the vulnerability of modern society and its infrastructure, coupled with the opportunities for the utilization of sophisticated high-leverage conventional and unconventional weaponry, requires the United States to both unilaterally, and in concert, develop credible responses and capabilities to minimize future threats.

⁶Peter Finn and Pamela Rolfe, "Spain Holds 8 Linked to Sept. 11 Plot," *The Washington Post*, November 19, 2001.

⁷"Spanish Police Hold Bin Laden Suspects," *BBC News*, November 13, 2001.

⁸*Ibid.*

⁹*Ibid.*

¹⁰Richard Engel, "Inside Al-Qaeda: A WINDOW INTO THE WORLD OF MILITANT ISLAM AND THE AFGHANI ALUMNI," JAMES.COM, September 28, 2001.

¹¹Fran Ffifis, "Suspect in Shoe Bombing Case Indicted," *CNN*, January 17, 2002.

Third, security measures must be taken to make certain that institutions with seemingly legitimate and often humanitarian ties to a foreign cause are, in fact, legitimate and are not controlled by, or illegally influenced by, international terrorist organizations. Particular attention should be paid to educational and religious institutions, foundations, banks, and corporations with links to terrorist groups at home and abroad.

Fourth, immigration procedures, such as establishing verification practices to make certain that individuals who receive visas for particular purposes, (e.g., educational pursuits), in fact, allow investigators to identify and detain, if necessary, foreign nationals in the United States who are not conforming to the terms of the visa.

Fifth, the use of national identification cards for U.S. citizens and for aliens who are in the United States should be considered in order to minimize the risk of terrorists using fraudulent passports, visas, and credit cards.

And sixth, in waging a war against diaspora terrorism, law enforcement agencies must reconcile the needs of national security with the requirements of civil liberties. Those agencies should never treat the foreign nationals of a particular country that may be sponsoring or supporting terrorism in the United States as guilty until proven innocent.

Mr. GEKAS. We thank the professor, and we turn to our final witness, Mr. Norman.

STATEMENT OF WILLIAM NORMAN, PRESIDENT, TRAVEL INDUSTRY ASSOCIATION OF AMERICA

Mr. NORMAN. Mr. Chairman, Ranking Member Jackson Lee and Members of the Subcommittee, I appreciate the opportunity to testify before you regarding the Visa Waiver Program, which in light of September 11 warrants a thorough but balanced review. I would request, Mr. Chairman, that my full written statement be entered into the record.

Mr. GEKAS. Without objection.

Mr. NORMAN. Speaking on behalf of the Travel Industry Association of America, or TIA, which represents all segments of the \$584 billion U.S. Travel industry, I wanted to reiterate why Congress created the Visa Waiver Program, the impact of September 11 on the U.S. Travel industry, and why Congress should continue to support this critical program as well as provide the proper resources to ensure that all safeguards are fully implemented.

Congress created the Visa Waiver Program in 1986 to encourage and facilitate international travel to the United States and to lessen the burden on U.S. Consular offices that were issuing millions of travel visas to citizens from low-risk nations.

The VWP remains a vital tool that facilitates and encourages overseas travelers to see the United States, spend over \$103 billion annually, and support over 1 million direct U.S. Jobs.

The tragic events of September 11 have had a devastating impact on the travel and tourism industry. In addition to the well-documented impact on domestic travel, international travel to the U.S. has been hurt considerably. Total international traveler spending is projected to decline by 11 percent for all of 2002, which is a loss of \$9.2 billion in international visitor spending.

In addition to encouraging international travel to the U.S., the Visa Waiver Program allows the United States Department of State to focus precious resources on scrutinizing potential visitors from higher risk nations.

Now, more than ever the defense of our homeland requires the combined efforts of multiple Federal agencies jointly managing our

borders and security. The Visa Waiver Program, Mr. Chairman, is a vital part of the Federal Government's risk management effort, and without it the Department of State would have to hire hundreds, perhaps thousands of new staff at a cost of tens of millions of dollars to begin reissuing visas to visitors in the current 28 visa waiver countries. It would be very difficult, if not outright impossible, for these visitors to obtain U.S. Visas, and they would vote with their feet and their wallets to travel to other destinations, many of which do not require a visa for entry.

Two years ago, TIA worked with this Subcommittee to achieve permanency for what was then the Visa Waiver Pilot Program. TIA worked with the then representative of this Subcommittee, Lamar Smith, and current Ranking Member Sheila Jackson Lee to add additional safeguards to what was already a sound program.

Outlined in our written testimony are three important security enhancements added in 1999, and one of those was used last week when the administration temporarily suspended Argentina from the program.

Now, while we deeply regret seeing any countries removed from the program, the travel industry still supports this action. It demonstrates the program has integrity and these new tools can be utilized in rare and unanticipated circumstances to protect U.S. Security interests.

In a post-September 11 world, the Visa Waiver Program is just as important as ever, and the rationale that underlies its creation and existence is as sound as ever. What is needed now are additional resources for the INS and improved management and oversight on the part of the INS.

Mr. Chairman, the Visa Waiver Program should be embraced by Congress and the Administration as part of our overall homeland security program as a means of strengthening both national and economic security. The Visa Waiver Program deserves the continuing support of this Subcommittee and the full Congress.

Thank you for the opportunity to appear before you today, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Norman follows:]

PREPARED STATEMENT OF WILLIAM S. NORMAN

Mr. Chairman, Ranking Member Jackson Lee, and Members of the Subcommittee, I appreciate the opportunity to testify before you regarding the Visa Waiver Program (VWP) which, in light of September 11, warrants a thorough but balanced review. The travel industry stands ready to work with Congress and the Administration to ensure that the safety of Americans, and all travelers—domestic and international—is the top priority.

To this end, you have heard and will hear from government officials, terrorism experts and others concerning the technical aspects of this program. However, the role of the Travel Industry Association of America (TIA), which represents all segments of the \$584 billion U.S. travel industry, is different. We want to share with you the reason Congress wisely chose to create the Visa Waiver Program, the impact of the terrorist attacks on the U.S. travel industry, and why Congress should continue to support this program as well as provide the proper resources to ensure that all safeguards required are fully implemented.

Congress created the Visa Waiver Program in 1986 to encourage and facilitate international travel to the U.S., and to lessen the burden on U.S. consular offices that were issuing millions of travel visas to citizens from low-risk nations. The VWP remains a vital tool that facilitates and encourages overseas travelers to see our great nation, both for business and pleasure. In fact, eighteen million overseas visitors came to the U.S. last year visa-free as a consequence of the program. Inter-

national travel to the U.S. is a more than \$100 billion slice of the U.S. economy, and these travelers support 1 million direct U.S. jobs. International travel to the U.S. has regularly achieved what in most areas of U.S. trade is unthinkable—a positive balance of trade that exceeds \$14 billion.

The tragic events of September 11 have had a devastating impact on the travel and tourism industry. In addition to the well-documented impact on domestic travel, international travel to the U.S. has been hurt considerably. According to the U.S. Department of Commerce's Tourism Industries Office, international arrivals to the U.S. in September of 2001 were down by almost 30 percent when compared to September 2000. Total international traveler spending is projected to decline by 11 percent for all of 2001, which is a loss of \$9.2 billion in international visitor spending.

In addition to encouraging international travel to the U.S., the Visa Waiver Program also allows the U.S. Department of State to focus precious resources on scrutinizing potential visitors from higher-risk nations around the world. Now more than ever, the defense of our homeland requires the combined efforts of multiple federal agencies jointly managing our borders and security. The Visa Waiver Program is a vital part of the federal government's risk management effort, and it ensures that scarce resources can be properly targeted to countries and individuals that need a much higher level of examination.

Furthermore, the U.S. Department of State does not have the resources and staff to begin issuing B-1 and B-2 visas to millions of visitors from the current 29 low-risk countries in the Visa Waiver Program. With more than half of all overseas visitors entering the U.S. under the VWP, it would take hundreds of new consular staff and tens of millions of dollars to begin such an operation. It would be difficult, if not outright impossible, for these visitors to obtain U.S. visas and they would vote with their feet and wallets to travel to other destinations, many of which do not require a visa for entry.

Two years ago, TIA appeared before this subcommittee urging your support for a permanent reauthorization of what was then the Visa Waiver Pilot Program. With the very active support of this subcommittee and your counterparts in the Senate, we were able to gain approval for a *permanent* Visa Waiver Program.

TIA worked with then chairman of this subcommittee, Representative Lamar Smith, and current Ranking Member Sheila Jackson Lee, to add additional safeguards to what was already a sound program. Three very important enhancements were included in the rewrite of the Visa Waiver Program statute in 2000:

- (1) All Visa Waiver Program countries will now be reviewed no less than every five years to determine their fitness to continue in the program; (2) The Attorney General, in consultation with the Secretary of State, can temporarily remove a country from the program for emergency reasons (government overthrow, war, breakdown in law and order, severe economic collapse, or any other extraordinary event that threatens U.S. security); and (3) All Visa Waiver travelers will now be required by a date certain to possess machine-readable passports thereby improving inspections and enhancing security at all U.S. ports-of-entry.

The second of those three important enhancements was utilized one week ago in the temporary suspension of Argentina from the Visa Waiver Program due to that nation's worsening economic and political situation. While we deeply regret the removal of any country from the program, TIA supports this action. Argentina's temporary suspension demonstrates the program has integrity and these safeguards can be utilized in rare and unanticipated circumstances to protect U.S. security interests.

The December 2001 Department of Justice—Office of Inspector General report on the Visa Waiver Program highlights needed improvements in the management of the program. As with other efforts to enhance national security, the recommendations contained in this report will require additional resources authorized and appropriated by Congress. Both branches of government share in the responsibility to further enhance this critical program.

In a post-September 11 world, the Visa Waiver Program is just as important as ever, and the rationale that underlies its creation and existence is as sound as ever. What is needed now are additional resources for the INS and improved management and oversight on the part of the INS. The Visa Waiver Program should be embraced by Congress and the Administration as part of our overall homeland security program, and should be viewed as a means of strengthening both our national security and economic security.

In closing, let me state that the U.S. travel industry will continue to do all it can to promote the United States as the world's leading travel destination. We call on the federal government to do its part to help facilitate inbound travel to the U.S.

National security and economic security can both be achieved through working partnerships between industry and government. The Visa Waiver Program is just such a partnership, and deserves the continuing support of this Subcommittee and the Congress.

Thank you for the opportunity to appear before you today. I look forward to answering any questions you might have.

Mr. GEKAS. Yes, we thank you. And the Chair will yield himself 5 minutes for a round of questioning.

Mr. Norman, a Frenchman who wanted to come to the United States could take advantage of the current visa waiver system. You said if we blocked it in any way or shut it down, he could look elsewhere for travel and tourism.

Could he go to Australia or somewhere else? Where would he go, this Frenchman?

Mr. NORMAN. This is a very competitive world in which we live and which all countries of the world are trying to present themselves as countries of destination of origin. Australia, as you happen to have mentioned, spends a hundred million dollars a year promoting travel to its country. And my judgment is that travelers tend to go where it is easier, more convenient and where they feel that they are wanted.

Mr. GEKAS. My question is, is Australia compatible to a Frenchman without any background checks, et cetera?

Mr. NORMAN. I am not certain if I can tell you specifically the answer in terms of a visa.

Mr. GEKAS. What I would like to have from you, it would be very helpful, if we obliterated our visa waiver, don't get excited, I am not contemplating that, where would the persons seeking good travel go, knowing that there would not be background checks and visa waivers, et cetera, and sort of match those up if you can for us at your leisure and send us something.

Mr. NORMAN. I would be delighted to do that.

[The information referred to follows in the Appendix]

Mr. GEKAS. Mr. Becraft, you heard the report of Mr. Fine. And Mr. Fine, some of the conclusions were to the effect that the recommendations were inadequately met, if at all, by the INS.

Now, I want to match those up. I would like to match up what the Inspector General believes are yet flawed processes in the INS, as he testified today. We have got to match these up, or I will have you back next week, if necessary, to see if we can—what I want to do is never invite Glenn Fine back here again if we can find that all of—everything that he said has been met.

Mr. BECRAFT. I must tell you, Mr. Chairman, that is my goal too. I don't want you to have Glenn back either, and, frankly, I don't want to be back on this issue. I am not pleased with what I have found out. I mean, you know, there is change happening out there. People are beginning to comply with this.

One of the things we found was that we were giving them mixed messages. We were saying, okay, you have got a 45-minute mandate to get this flight cleared. At the same time, we were saying, but you have got to do stuff manually now that you know hopefully some day in the future you will be able to do totally electronically.

That is no excuse. I agree with you. It is no excuse. I made a personal—when I found out I was going to testify on this, I decided I am going to call out. One of the criticisms that the INS people

had was that the IG, you know, called the port directors and inspectors down in Miami, I think at JFK and other places.

And my response to my people was, so what? Well, that is not a real thorough investigation. But the bottom line is if our people were honest enough to say that, no, we haven't seen the guidance or, you know, we are still not doing it completely, you know, that is good enough for me.

I called out and I found out that there were some people out there who were very honest with me and said, we have seen the latest guidance, but, you know, we weren't fully complying in the past. My question of them was: Why? And I have talked to the leadership in field operations and the people that have direct responsibility here, and we are going to fix it.

We will never have 100 percent. This isn't a zero defects world we live in. But we are going to be pretty darn close to it.

Mr. GEKAS. All right. Mr. Alexander, I am fascinated by your report in outlining the countries which match up to our Visa Waiver Program, but match up to al Qaeda Visa Waiver Program, whatever it is. And the recommendations are what? To reinstate some kind of background check, which then goes against the waiver principle, or how do we deal with it?

Mr. ALEXANDER. Well, it is a question really of risk assessment. In terms of Europe without borders, and this really opened up opportunities for people to come from all over the world to Europe, from one side of Europe to the other side of Europe, and then to travel from Europe to the United States.

So I think even the United Kingdom, which is a friend and ally of the United States and cooperates fully with the United States on those matters, nevertheless has to make a 100 percent effort to make sure that we don't have another example like Reid and others who are involved in terrorist activities.

So it is really a question of trying to balance the security interests and civil liberties, but at the same time I think we have to increase the intelligence cooperation between the United States and the European countries to strengthen it, and actually if we are not going to do that, then I think we are going to be continuously targeted by these terrorists who will come to the United States and to have cooperation by some other diaspora, co-religionists, let's say, to support their effort that we have seen in connection with the September 11 attacks.

Mr. GEKAS. I thank you.

The Chair yields 5 minutes to the lady from Texas.

Ms. JACKSON LEE. Thank the Chairman very much. I am going to go to Mr. Fine and Mr. Becraft. And Mr. Becraft, in particular, let me just say where are you and the IG awry? Where is the contention or the conflict in what INS is doing now, how fast you can do it? And I heard you say you were not pleased when people in the field didn't seem to know. Why not? Why didn't they seem to know? And what are you doing to implement a system where there cannot be a line person saying I do not know?

Mr. BECRAFT. That is a good question, Congresswoman. First off, let me say that I don't think that Glenn Fine and I disagree. I do not disagree with the findings of his report. I find it also unconscionable that we are at this point where we still have people in

the field who don't—have not seen the guidance that was put out, that was put out back in 2001, or just after—excuse me in 1999, and then the guidance that was put out, you know, most recently this past month.

It is a problem that Jim Ziglar and I are going to address personally. I have already had the discussion with the folks responsible for inspections. I have talked to them again this morning. And I said—they happen to be out of town right now, but next week when they get back—that we are going to have a serious discussion.

The things that I am focusing on are, one, ensuring that we have talked with each and every leader who has responsibility here, that we take this very seriously. And there is no excuses any longer. Number two, I want to make sure that our people in the field are trained and understand some of the issues that Glenn has raised here today, especially that last one about the guidance, how to, you know, decide what passport numbers to enter, et cetera, those things.

You know, people apparently have complained about understanding clearly what the guidance is. So it is a training issue as well. But we are going to take it first hand and we are going to take it very personal with all of the leadership in the agency.

Ms. JACKSON LEE. In your review of September 11, did any of those individual perpetrators of violence and terrorism come under this particular program?

Mr. BECRAFT. All of those people that arrived in this country were under legitimate, you know, valid visas at that time. I am not sure of anyone that arrived—there—no, I don't think anyone arrived under the Visa Waiver Program.

Ms. JACKSON LEE. In order for the record to be clear, and I see Mr. Norman responding, but in order for the record to be clear, I would like you to submit that in writing just for our own information.

[The information referred to follows in the Appenidx]

Ms. JACKSON LEE. Let me also find out, you heard the testimony of Mr. Norman, and you know that Mr. Smith and myself worked on providing stringent or additional requirements.

From your perspective in the INS, are those requirements working? Are you proposing more stringent additions to the program? What is your additional solutions to the IG's concerns?

Mr. BECRAFT. I think from a perspective, as far as—for example, let me use the example of the six countries that we are evaluating at this time that are currently in the program, that were the first six that we were going to look at.

One of the things that is troubling to us is to ascertain in those countries how many of their passports have been stolen. How many blank passports? We can read—the New York Times had an article not long ago that stated that the numbers of Italian passports—you know, I think INS folks said that it was 6 million that we know of that were stolen.

Ms. JACKSON LEE. I would ask you to summarize so I can get to Mr. Fine and Mr. Norman.

Mr. BECRAFT. Certainly. Let me just point out that getting the accurate information from the countries that are in this program

is a challenge. It is a big challenge. And we have asked several of them many times for information on these numbers and they still, you know, are unwilling to share the exact numbers.

Ms. JACKSON LEE. So are you in the position of proposing, of getting back to this Committee with some suggestions of what we need to do, keeping the program, some of its basic meritorious aspects of it?

Mr. BECRAFT. Congresswoman, yes, we would be very willing to come back to you with recommendations on that.

[The information referred to follows in the Appendix]

Ms. JACKSON LEE. Mr. Fine, as you listened to Mr. Becraft's testimony, does that satisfy you in terms of some of the elements of problems that you have seen in your report, and your analysis?

Mr. FINE. I am glad to hear his dedication to resolving this problem. In response to your previous question, I think part of the issue was that in the past the INS would respond to our reports with policies and send them out to the field, but there would be no follow-up to ensure that they were implemented, that they were followed, that they were monitored, and so when we went back and followed up, we found that people didn't know about the policies or didn't adequately respond to them.

I think there has to be a constant effort. There has to be training. There has to be prioritization. There has to be a constant effort to make sure that the people in the field are following a policy, that it is not just a paper exercise. So the proof will be in the pudding.

Ms. JACKSON LEE. Have you offered changes in the law?

Mr. FINE. We did not in the report. I could suggest some things in addition to sort of the INS's following the recommendations of our report. I do believe that the Committee should consider requiring countries who participate in the Visa Waiver Program to report to the United States lost or stolen or blank passports. There is no statutory requirement that that happen.

I also believe that the INS needs to expeditiously implement an entry-exit system. That has been a long-standing problem of the INS. They need to be able to know how many visa overstays there are, because that is a condition of participation in the program, and I don't think the INS has accurate data on which countries have inadequate overstay rates.

And, third, I do believe this issue about a 45-minute requirement, Congressionally mandated, for the INS to clear international flights may be too onerous. And in this day and age we may—you may want to give them some relief from that provision so that they can have more time in particular cases to interview and review applicants for admission, particularly from Visa Waiver Program countries who this is the only time that they will be interviewed by a United States official before they come in the U.S.

So those are three things the Committee should consider to try and improve the Visa Waiver Program.

Ms. JACKSON LEE. I wanted to quickly just ask, Mr. Norman, and I will wrap up. I think what Mr. Fine says has been very instructive. And I don't want to diminish, Mr. Norman, the importance of the economic element of this.

Mr. Norman, you hear the testimony here. Is this, with respect to your organization, who you represent, the millions of jobs and

all, what do you have to offer, and we appreciate the contributions you made in the earlier legislation that can be sensitive to our need to fight terrorism and what you have to do. What is it that you think the INS could be more stringent, or what is your suggestion?

Mr. NORMAN. Well, thank you very much. I would admit that we know perhaps more about tourism than terrorism. But I would indicate there are three things that are very important, that in my judgment can improve the management of our borders and encourage more tourism.

I think, first of all, all of the positions that the INS has authorized should be filled. It is very disturbing, I think to us, to find out that in many cases they are short-handed. And part of the reason is, it is my understanding, and I would be delighted if Mr. Becraft has additional information, is that many of these individuals who are first-line representatives, our ambassadors, the first person the visitors meet coming in here, many of them are the lowest paid of all inspectors, and therefore they move to other areas and they have a big turnover problem.

The second thing is we need better training for our INS inspectors. I think that is very important. The third thing that we should do is to upgrade the technology, as has already been indicated here. We are currently serving on a committee, TIA, that is involved in trying to improve that.

I think the combination of those three things, fully staffing, better training and technology will all go a long way to help to improve the situation.

Ms. JACKSON LEE. Mr. Chairman, I thank you for your indulgence.

Mr. GEKAS. Thank you.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I am pleased that we are not getting the kind of what I feared would be a hysterical kind of reaction, that we had to end the program. It is a very important program. It is important economically. But let me speak about another aspect of it.

I represent a large number of people in my own district, American citizens, for whom this is an important family reunification, family values program. These are people who have close relatives who live far away, and it would be a real disruption for the Portuguese-Americans in my district, for example, who have relatives 2000 miles away in the Azores. So I am pleased that we have this effort to try and improve it.

And I was also pleased to see the Ranking Member ask the question I was going to ask, which was, yes, we may have had Mr. Moussaoui. I guess Mr. Moussaoui, who was caught before he could do any bad, came in under this program, but everybody else came in under the regular visa program. So what that means is we don't want to just single this program out. We want to improve the overall program. And one thing in particular Mr. Fine said, which has been something that I have thought was very important from all aspects, and that is to deal with visa overstays.

Among other things, I assume we are talking about fairly complex parts. Part of the problem is people stay much more than 90 days. It takes more than 90 days, fortunately, to figure out some

of those things. It is also—I always felt that it was unfair to have countries kept out of the Visa Waiver Program based on the refusal rate; they were getting punished for being punished.

What would happen is you would go the American consulate, and because the American consul said no to you, you couldn't get onto the Visa Waiver Program. The problem may have been the American consul was unfair in the first place.

So obviously the logical way to determine eligibility is visa overstays, and that, by the way, has another advantage, because I have told people in my district, to the extent that we not are not talking about visa overstays, I want to generate community pressure, so when people come, and other people do know when they got here, that there is procedure on them not to overstay the visa because the whole community would be penalized by that. If people understand that a high visa overstay rate is going to cost you your participation in the program, you are going to generate pressure from within the United States to help enforce that.

So let me just ask, Mr. Becraft, where are we in implementing the kind of monitoring on these visa overstays? Because we can talk about whether people get in the regular program or Visa Waiver Program. It seems to be most of the problems we have are from people who overstayed, and it has been my impression too from INS testimony that the great bulk of the people who are now in detention, or at least a large number of them, I don't think there are any Visa Waiver Program applicants in there. I would be interested if there were. I know it is a big secret about those people, but without any anonymity being breached, if you can tell me if there are any visa waivers entrants.

But it is my impression that a lot of those are people that overstayed, that some are people who entered illegally, but a very large chunk are people who came and overstayed. So I think doing visa overstays, if we can do that efficiently, really resolves a large part of this problem and allows us then to keep the valuable Visa Waiver Program, but with more safeguards.

Where are we toward implementing an overstay program? What do we have to do? How can we help?

Mr. BECRAFT. First off, Congressman, I would agree with you. We have got to get control of the visa overstay problem. Right now, as you know, the only way we know what is in here is based on the I-94 document that these people, you know, people coming in, fill out on the airplane. They come in. We send those to our center up in South Dakota. We put them into an electronic database. But the bottom line is, when they depart they are supposed to hand in the other document. If they don't hand in the other document, they are off and we don't know where they are. So we try to speculate and statistically figure out through what we call the apparent overstay rate. But we know that in fact that is not accurate.

Where are we going in the future? As you know, the DMIA, the Data Management Improvement Act, as well as the Visa Act, Visa Waiver Permanent Act, required us to create an entry-exit system. That is under tremendous due diligence right now within the Administration to create an entry-exit system.

Mr. FRANK. Let me say, because I have one more point I want to make, I am glad to hear that. I would be delighted to cooperate.

I do think to the extent that we run into objections that this is Big Brother, let's be very clear. If you come here for 90 days, you have no objection whatsoever in my mind, legitimately, to our checking to make sure you leave in 90 days and having some idea where you are during that period for that purpose.

So I am all for that. One other issue I want to raise, I guess Mr. Fine raised. I just wanted to say, in defense of the INS and of us, and of everybody, there is a lot of hindsight here, and I recognize that there were policies promulgated and not enforced. But that is what we promulgate, a hell of a lot more policies than any human being could enforce, and the question is, which ones are going to get enforced. And we do that here, and we tell you to do studies, and obviously we have all now had our attention focused on given a higher priority to this.

I was not aware of the 45-minute wait. Is that statutory?

Mr. FINE. Yes.

Mr. FRANK. I think about it. I have flown some. But, you know, you take a couple of hours to get to the airport, and then you hang around the airport for a while, you fly. We are talking about people who most all are coming from overseas. You fly 7, 8 hours and then you got to take another hour or two when you leave. The 45 minutes is the least of it. So I would be very pleased in doing away with that.

Mr. Norman, I would assume that your organization wouldn't object. It would be good for the people at the concession stand at the airport. They have been hurting.

So the 45-minute restriction does sound to me like one of the things that ought to go. If it is under our jurisdiction, we ought to take a look at that.

That and the overstay seem to be two very significant advances. Thank you.

Mr. GEKAS. All right. That concludes the round of questioning and concludes the part of the hearing that we had here today. We have learned a lot and we are still eager to learn more, as you can tell.

We trust that you will be available for any written questions that the Members might want to pose to you directly, and we would welcome these replies.

With that, we stand adjourned.

[Whereupon, at 3:55 p.m., the Subcommittee was adjourned.]

A P P E N D I X

STATEMENTS SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Good afternoon, Mr. Chairman, and thank you for this timely opportunity to review the now permanent Visa Waiver Program. It has been a little over a year since its permanency and already the integrity of the program and its safeguards have been tested. While I definitely believe constructive changes to the program are warranted, I continue to support the Visa Waiver Program because I believe its basic structure is still in tact.

The Visa Waiver Program was created by Congress to allow short-term visitors to travel to the U.S. without having to obtain a visitor visa, thereby encouraging and facilitating international tourism to the United States. As the travel industry has noted, this has brought in over 18 million overseas visitors last year and has boosted the economy by more than \$100 billion supporting over 1 million direct U.S. trade jobs.

However, recent world developments and September 11th have brought about many new issues regarding the visa waiver program and have even given some the cause to question whether the program is worth it. I believe the program is worth it but believe there is the need for constructive changes and increased safeguards. Argentina points out that well thought safeguards in the program can make the it work well—emergency safeguards were triggered and Argentina has been temporarily suspended. But other measures may be needed to shore-up the system. The DOJ Inspector General has been recommending changes to increase security in the Visa Waiver Program since 1999 but they tell us due diligence in carrying them out has not been paid. INS says that security concerns need to continue to be brought to the forefront because of the potential for abuse by terrorists but that eliminating the program will not eliminate the ability of terrorists to enter the U.S. And Professor Alexander, a counter terrorism expert, concludes that we have failed to appreciate the magnitude and implications of September 11th but we should not continue to do so.

I don't believe we should either. And I also agree with Professor Alexander that we should not over-react in our need for national security to the point where we ultimately weaken the democratic institutions we seek to protect, including our civil and institutional liberties.

The Visa Waiver Program is not broke and provides great benefits, but it may need some fixing. Terrorism should not stop America from going on and it should not stop the Visa Waiver Program from going on. In fact, the programs benefits of growing trade and foreign relations should be pushed forward to include other eligible countries, including as South Africa. And Argentina should be reconsidered as an eligible member once it again meets program criteria. Thank you Mr. Chairman and I look forward to hearing from the witnesses.

MATERIALS SUBMITTED FOR THE RECORD



**Travel Industry Association
of America**

March 18, 2002

The Honorable George Gekas
Chairman, Subcommittee on Immigration and Claims
House Committee on the Judiciary
B-370B Rayburn House Office Building
Washington, DC 20515

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Dear Chairman Gekas:

Thank you for the opportunity to testify before your subcommittee on the Visa Waiver Program on February 28.

During my testimony, I discussed how the market for international travelers is very competitive. Many countries make great efforts to position themselves as premier travel destinations. I asserted that if the Visa Waiver Program was suspended or terminated, the United States would lose a substantial amount of visitors to competing destinations that have entry procedures comparable to our Visa Waiver Program. Unfortunately, at the time of my testimony, I could not provide you with information on the specific visa requirements of America's competitors. I appreciate your willingness to allow me to respond to your question in detail at a later date.

Enclosed is a more detailed explanation of which countries compete for international travel with the U.S. and what the visa requirements for those countries are. A review of this information will confirm my earlier assertion. Of the top ten competitors for travel from visa waiver countries, eight do not require visas for these tourists to enter their country, and two process visa requests for less money and with same-day approval.

TIA has worked long and hard to make the Visa Waiver Program a permanent and continuing one that benefits our nation's economy. I appreciated the opportunity to speak on this important program and will be pleased to answer any additional questions you might have.

Sincerely,

William S. Norman

William S. Norman
President and CEO

Enclosure

Sustaining Corporate Leadership

AAA
Air Transport Association of America
Alliant Travel
American Airlines, Inc.
American Express Company
American Tours International, Inc.
Amtrak
ANC Rental Corporation
Arizona Office of Tourism
Atlantic City Convention & Visitors Authority
Avis Rent A Car System, Inc.
Best Western International, Inc.
Greater Boston Convention & Visitors Bureau
Budget Group Inc.
Busch Entertainment Corporation
Carlson Companies, Inc.
Cendant Corporation
Chicago Convention & Tourism Bureau, Inc.
Choice Hotels International
Coach USA, Inc.
Delta Air Lines, Inc.
Discover New England
Dollar Rent A Car System, Inc.
Fairmont Hotels and Resorts
Greyhound Lines, Inc.
The Hertz Corporation
Hilton Hotels Corporation
Hyatt Hotels Corporation
Illinois Dept. of Commerce and Community Affairs
Las Vegas Convention & Visitors Authority
Loews Hotels
Los Angeles Convention & Visitors Bureau
Louisiana Office of Tourism
Marriott International
Maryland Office of Tourism Development
Massachusetts Office of Travel & Tourism
Mendell Corporation
The Mills Corporation
Minnesota Office of Tourism
National Geographic Society
Nevada Commission on Tourism
Northstar Travel Media, LLC
NYC & Company
Royal Caribbean Cruises, Ltd.
Ship America Alliance
Six Continents Hotels, Inc.
Southern Progress Corporation
Starwood Hotels & Resorts Worldwide, Inc.
SuperShuttle International
Texas Dept. of Economic Dev., Tourism Division
United Airlines, Inc.
Universal Studios
Virginia Tourism Corporation
VISIT FLORIDA
Walt Disney Parks & Resorts
Wyndham International

Chair
Fred Lounsberry
Senior Vice President
Universal Studios
Recreation Group

First Vice Chair
John A. Marks
President & CEO
San Francisco Convention
& Visitors Bureau

Second Vice Chair
Bruce W. Wolff
Senior Vice President
Sales & Marketing
Marriott International

Secretary
Sandra Miller
Chairman & CEO
Budget Group, Inc.

Treasurer
Dawn Drew
Vice President & Publisher
National Geographic Traveler
National Geographic Society

President
William S. Norman
President & CEO
Travel Industry
Association of America

**Response to Question from
House Committee on the Judiciary
Subcommittee on Immigration and Claims
Hearing on the Implications of Transnational Terrorism for the Visa Waiver Program
February 28, 2002**

During our oral testimony, TIA addressed the economic impact a suspension or termination of the Visa Waiver Program would have on the national economy. TIA had asserted that if the Visa Waiver Program was discontinued, the additional requirement of obtaining a visa before entry into the U.S. would steer international travelers to other countries. TIA was asked by the Committee Chairman to expand on that comment. Specifically, what other countries would potential U.S. visitors go to, and what visa requirements do those other countries have. Following is a detailed review of U.S. competitors and their visa requirements for international travelers from the VWP.

International travel to the U.S. is a vital component of the U.S. economy. International travel creates over one million U.S. jobs, generate over \$106 billion in expenditures, and give our nation a \$14 billion trade surplus.

The top five Visa Waiver Program countries with the most travel to the U.S. are, in order, Japan, the United Kingdom, Germany, France, and Italy. These five countries represent 78% of all international travel to the U.S. under the VWP and 51% of all overseas travel to the U.S.

JAPAN: The importance of the Japanese market to the U.S. travel and tourism industry can not be overstated. In addition to the large numerical volume, Japanese travelers spend more per traveler per day than any other international traveler. Of the \$14 billion dollar trade surplus the U.S. has in international travel, \$9 billion of that comes from the surplus generated from Japanese travel to the U.S. Approximately 5,061,000 Japanese visited the U.S. in 2000.

The U.S. is the top international destination for Japanese "long-haul" travelers, capturing 39% of all Japanese traveling outside of Asia. The top three competitors with the U.S. for this market are Italy, Germany, and France. Collectively, Europe takes 49% of the long-haul trips from Japan.

The European Union does not require visas for tourists from Japan. If the Visa Waiver Program was suspended or terminated, the additional cost and much longer waiting period associated with obtaining a U.S. visa would be a severe detriment to Japanese travel to the U.S. and drive more Japanese travelers to Europe.

UNITED KINGDOM: Approximately 4,703,000 British visited the U.S. in 2000. The U.S. is the top international destination for British long-haul travelers, capturing 35% of all British travel outside of Europe. The top three competitors with the U.S. for this market are Canada, Australia, and Thailand.

Canada does not require visas for tourists from the European Union. Thailand does not require visas for tourists from most European countries, including Germany, France, Italy, and the UK. Australia does require tourists to apply for a visa, but Australian visas can be processed over the Internet with same day approval and cost approximately \$40 US.

GERMANY: Approximately 1,786,000 Germans visited the U.S. in 2000. The U.S. is the top international destination for German long-haul travelers, capturing 22% of all German travel outside of Europe. The top three competitors with the U.S. for this market are Tunisia, Canada, and Thailand.

Tunisia does not require visas for tourists from many European countries, including Germany. Canada does not require visas for tourists from the European Union. Thailand does not require visas for tourists from most European countries, including Germany, France, Italy, and the UK.

FRANCE: Approximately 1,087,000 French visited the U.S. in 2000. The U.S. is the top international destination for French long-haul travelers, capturing 17% of all French travel outside of Europe. The top three competitors with the U.S. for this market are Tunisia, Morocco, and Thailand.

Tunisia does not require visas for tourists from many European countries, including France. Morocco does not require visas for tourists from European Union countries such as France. Thailand does not require visas for tourists from most European countries, including Germany, France, Italy, and the UK.

ITALY: Approximately 612,000 Italians visited the U.S. in 2000. The U.S. is the top international destination for Italian long-haul travelers, capturing 16% of all Italian travel outside of Europe. The top three competitors with the U.S. for this market are Tunisia, Cuba, and Brazil.

Tunisia does not require visas for tourists from many European countries, including Italy. Brazil requires visas for most tourists, but tourists from Italy are exempt from Brazilian visa requirements. Cuba requires tourists to fill out a modified visa called a "tourist card" upon arrival in Cuba. The tourist card costs \$20.

In conclusion, of the top ten competitors for travel from visa waiver countries, eight do not require visas for these tourists to enter their country, and two process visa requests for less money and with same-day approval. From a marketing standpoint, the Visa Waiver Program keeps the U.S. travel and tourism industry competitive in the international travel market. Without the VWP, international travelers from America's top inbound countries would have an additional \$60 per person expense added onto their trip, with a much longer waiting period before the necessary paperwork would be issued. Many travelers would instead decide to go to any number of appealing international destinations that do not have the cost and waiting period associated with U.S. visas.



U. S. Department of Justice

Office of the Inspector General

March 5, 2002

The Honorable Sheila Jackson Lee
Ranking Minority Member
Subcommittee on Immigration and Claims
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515-6216

RECEIVED
APR 15 2002
Immigration and Claims

Dear Congresswoman Jackson Lee:

After the February 28, 2002, hearing by the Judiciary Subcommittee on Immigration and Claims regarding the visa waiver program, you asked me to send to you the list of suggestions I made in response to a question about how to improve the program. In addition to the issues I discussed in my statement regarding the Immigration and Naturalization Service (INS) compliance with the recommendations in our report, I made three additional suggestions in my answer:

1. Countries that participate in the visa waiver program should be required by statute to share timely and accurate information with the United States about their lost or stolen passports. According to the INS, reporting by some countries is sporadic and incomplete. As a result, a thorough and accurate listing of lost or stolen passports from visa waiver countries is not available in United States lookout databases, which could help facilitate the fraudulent use of those passports to enter the country.
2. The INS needs to expeditiously implement an automated entry-exit system. This would provide accurate statistics on visa overstay, which is an important criteria in determining whether countries should be allowed to participate or remain in the visa waiver program. The INS has had longstanding difficulties creating and implementing an accurate entry-exit system to track non-immigrants who travel to this country, as we pointed out in our reports on the INS's Automated I-94 System (August 2001) and the INS's Monitoring of Non-Immigrant Overstays (September 1997). The USA Patriot Act requires that an integrated entry-exit control system be developed, and an interagency task force, led by the INS, is working on developing it. This effort needs to be given sufficient priority and adequate resources.

3. By statute (8 U.S.C. § 1356(g)), the INS is required to inspect passengers on international flights within 45 minutes of their arrival at airport inspection facilities. INS inspectors have to conduct very brief interviews, usually lasting less than one minute, to determine whether to admit the passenger. The interview of a passenger from a visa waiver country by an INS inspector is the first and only time a United States official determines whether the passenger should be admitted. We suggest that the 45-minute requirement be amended to allow for more thorough checks.

I hope these recommendations are useful. I would be pleased to provide any further information to you or the subcommittee or answer any other questions you have.

Sincerely,



Glenn A. Fine
Inspector General

cc: The Honorable George W. Gekas ✓
Chairman, Subcommittee on Immigration
and Claims
Committee on the Judiciary
U.S. House of Representatives



U.S. Department of Justice
Immigration and Naturalization Service

Office of the Commissioner

CO 703.1192
425 I Street NW
Washington, DC 20536

APR 19 2002

The Honorable Sheila Jackson Lee
Ranking Minority Member
House Committee on the Judiciary
Subcommittee on Immigration and Claims
U.S. House of Representatives
Washington, DC 20515

RECEIVED
APR 19 2002
Immigration and Claims

Dear Congresswoman Jackson Lee:

This letter is to respond to your request for suggestions to strengthen the Visa Waiver Program (VWP). You made this request at a February 28, 2002, hearing of the House Judiciary Committee, Subcommittee on Immigration and Claims.

There are a number of areas where improvements are necessary to strengthen the integrity and security of the VWP. Clearly, on the United States' side, implementation of an effective entry-exit tracking system is critical to development of accurate and actionable overstay data. The INS has developed and has begun to implement an automated system capable of recording arrival and departure data on VWP aliens traveling through airports and seaports. Additional steps are in progress to make the entry-exit system fully operational at all airports and seaports where visa waiver passengers arrive or depart the United States. In relation to countries participating in the VWP, the following is a list of operational activities, which would greatly enhance the Program. Some of these are already embodied in enacted or pending legislation.

It is crucial that VWP countries take all steps necessary to render travel documents issued by those countries machine-readable and highly secure. The VWP countries should be encouraged to accelerate passport issuance cycles to include improvements on the maximum number of travel documents in the shortest possible period of time.

Sharing of data on terrorists, criminals, and compromised travel documents, especially stolen blank passports, must be a feature of VWP participation. It is noted that privacy legislation may have to be considered by a number of countries, including the United States, in relation to sharing of criminal history data.

The Honorable Sheila Jackson Lee
Page 2

Law enforcement and border security cooperation and coordination should be heightened between VWP countries and the United States. On a reciprocal basis, controls can be increased at major transit points based on enforcement data, which show recent trends and itineraries. Investigation and prosecution of alien-smuggling and human trafficking should be a mutually agreed objective and should be facilitated by relevant legislation in all VWP countries. The VWP countries should cooperate and coordinate with the United States in training and capacity building in source and transit countries, which are not VWP participants.

If we may be of assistance in the future, please let us know.

Sincerely,

FOR THE COMMISSIONER



Joseph Karpinski
Director
Congressional Relations and Public Affairs

cc: The Honorable George W. Gekas, Chairman, Committee on the Judiciary
Subcommittee on Immigration and Claims

